

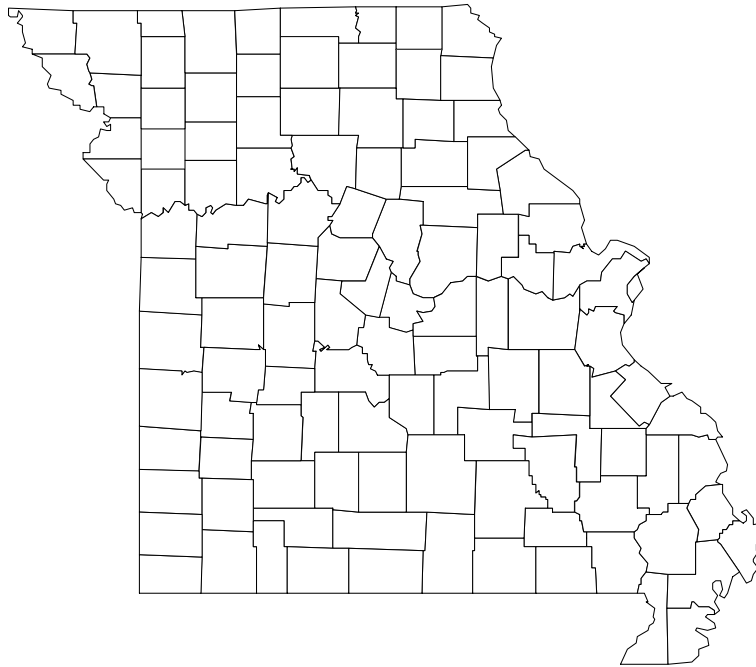
APPENDIX A

MISSOURI SOLID WASTE MANAGEMENT LAW

Note: This version of the Missouri Solid Waste Law was in effect
December 2004.

For a current version please view Sections 260.200-260.345 on the web
page provided by the Missouri General Assembly at
<http://www.moga.mo.gov/statutes/chapters/chap260.htm>.

Missouri Solid Waste Management Law



Effective August 28, 2004

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CHAPTER 260

Missouri Solid Waste Management Law

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Missouri Revised Statutes

Chapter 260 **Environmental Control**

August 28, 2004

All licenses, permits or grants of authority by department must be in compliance with local area's zoning, building, health codes or ordinances, procedure to determine compliance.

260.003. Notwithstanding any provision of this chapter, the department of natural resources shall require that before any permit, license, or grant of authority is issued or renewed by the department of natural resources pursuant to this chapter, the local jurisdiction shall verify that the person and activity which is the subject of such permit, license, or grant of authority, is in compliance with all applicable local zoning, building, and health codes, ordinances, and orders with regard to the person and activity regulated pursuant to this chapter. Failure of the local jurisdiction to respond to a request from the department of natural resources for such verification within thirty days of such request shall be deemed to be verification of local compliance.

(L. 1995 S.B. 60 & 112 § 1)

(1998) Amendment in SB 60 (1995) was unconstitutional to the extent that it applied to hazardous waste management because title of bill was underinclusive. *National Solid Waste Management Association v. Director of the Department of Natural Resources*, 964 S.W.2d 818 (Mo.banc).

Definitions.

260.200. The following words and phrases when used in sections 260.200 to 260.345 shall mean:

(1) "Alkaline-manganese battery" or "alkaline battery", a battery having a manganese dioxide positive electrode, a zinc negative electrode, an alkaline electrolyte, including alkaline-manganese button cell batteries intended for use in watches, calculators, and other electronic products, and larger-sized alkaline-manganese batteries in general household use;

(2) "Button cell battery" or "button cell", any small alkaline-manganese or mercuric-oxide battery having the size and shape of a button;

(3) "City", any incorporated city, town, or village;

(4) "Clean fill", uncontaminated soil, rock, sand, gravel, concrete, asphaltic concrete, cinderblocks, brick, minimal amounts of wood and metal, and inert solids as approved by rule or policy of the department for fill, reclamation or other beneficial use;

(5) "Closure", the permanent cessation of active disposal operations, abandonment of the disposal area, revocation of the permit or filling with waste of all areas and volumes specified in the permit and preparing the area for long-term care;

(6) "Closure plan", plans, designs and relevant data which specify the methods and schedule by which the operator will complete or cease disposal operations, prepare the area for long-term care, and make the area suitable for other uses, to achieve the purposes of sections 260.200 to 260.345 and the regulations promulgated thereunder;

(7) "Conference, conciliation and persuasion", a process of verbal or written communications consisting of meetings, reports, correspondence or telephone conferences between authorized representatives of the department and the alleged violator. The process shall, at a minimum, consist of one offer to meet with the alleged violator tendered by the department. During any such meeting, the department and the alleged violator shall negotiate in good faith to eliminate the alleged violation and shall attempt to agree upon a plan to achieve compliance;

(8) "Demolition landfill", a solid waste disposal area used for the controlled disposal of demolition wastes, construction materials, brush, wood wastes, soil, rock, concrete and inert solids insoluble in water;

(9) "Department", the department of natural resources;

(10) "Director", the director of the department of natural resources;

(11) "District", a solid waste management district established under section 260.305;

(12) "Financial assurance instrument", an instrument or instruments, including, but not limited to, cash or surety bond, letters of credit, corporate guarantee or secured trust fund, submitted by the applicant to ensure proper closure and postclosure care and corrective action of a solid waste disposal area in the event that the operator fails to correctly perform closure and postclosure care and corrective action requirements, except that the financial test for the corporate guarantee shall not exceed one and one-half times the estimated cost of closure and postclosure. The form and content of the financial assurance instrument shall meet or exceed the requirements of the department. The instrument shall be reviewed and approved or disapproved by the attorney general;

(13) "Flood area", any area inundated by the one hundred year flood event, or the flood event with a one percent chance of occurring in any given year;

(14) "Household consumer", an individual who generates used motor oil through the maintenance of the individual's personal motor vehicle, vessel, airplane, or other machinery powered by an internal combustion engine;

(15) "Household consumer used motor oil collection center", any site or facility that accepts or aggregates and stores used motor oil collected only from household consumers or farmers who generate an average of twenty-five gallons per month or less of used motor oil in a calendar year. This section shall not preclude a commercial generator from operating a household consumer used motor oil collection center;

(16) "Household consumer used motor oil collection system", any used motor oil collection center at publicly owned facilities or private locations, any curbside collection of household consumer used motor oil, or any other household consumer used motor oil collection program determined by the department to further the purposes of sections 260.200 to 260.345;

(17) "Infectious waste", waste in quantities and characteristics as determined by the department by rule, including isolation wastes, cultures and stocks of etiologic agents, blood and blood products, pathological wastes, other wastes from surgery and autopsy, contaminated laboratory wastes, sharps, dialysis unit wastes, discarded biologicals known or suspected to be infectious; provided, however, that infectious waste does not mean waste treated to department specifications;

(18) "Lead-acid battery", a battery designed to contain lead and sulfuric acid with a nominal voltage of at least six volts and of the type intended for use in motor vehicles and watercraft;

(19) "Major appliance", clothes washers and dryers, water heaters, trash compactors, dishwashers, conventional ovens, ranges, stoves, woodstoves, air conditioners, refrigerators and freezers;

(20) "Mercuric-oxide battery" or "mercury battery", a battery having a mercuric-oxide positive electrode, a zinc negative electrode, and an alkaline electrolyte, including mercuric-oxide button cell batteries generally intended for use in hearing aids and larger size mercuric-oxide batteries used primarily in medical equipment;

(21) "Minor violation", a violation which possesses a small potential to harm the environment or human health or cause pollution, was not knowingly committed, and is not defined by the United States Environmental Protection Agency as other than minor;

(22) "Motor oil", any oil intended for use in a motor vehicle, as defined in section 301.010, RSMo, train, vessel, airplane, heavy equipment, or other machinery powered by an internal combustion engine;

(23) "Motor vehicle", as defined in section 301.010, RSMo;

(24) "Operator" and "permittee", anyone so designated, and shall include cities, counties, other political subdivisions, authority, state agency or institution, or federal agency or institution;

(25) "Permit modification", any permit issued by the department which alters or modifies the provisions of an existing permit previously issued by the department;

(26) "Person", any individual, partnership, corporation, association, institution, city, county, other political subdivision, authority, state agency or institution, or federal agency or institution;

(27) "Postclosure plan", plans, designs and relevant data which specify the methods and schedule by which the operator shall perform necessary monitoring and care for the area after closure to achieve the purposes of sections 260.200 to 260.345 and the regulations promulgated thereunder;

(28) "Recovered materials", those materials which have been diverted or removed from the solid waste stream for sale, use, reuse or recycling, whether or not they require subsequent separation and processing;

(29) "Recycled content", the proportion of fiber in a newspaper which is derived from postconsumer waste;

(30) "Recycling", the separation and reuse of materials which might otherwise be disposed of as solid waste;

(31) "Resource recovery", a process by which recyclable and recoverable material is removed from the waste stream to the greatest extent possible, as determined by the department and pursuant to department standards, for reuse or remanufacture;

(32) "Resource recovery facility", a facility in which recyclable and recoverable material is removed from the waste stream to the greatest extent possible, as determined by the department and pursuant to department standards, for reuse or remanufacture;

(33) "Sanitary landfill", a solid waste disposal area which accepts commercial and residential solid waste;

(34) "Solid waste", garbage, refuse and other discarded materials including, but not limited to, solid and semisolid waste materials resulting from industrial, commercial, agricultural, governmental and domestic activities, but does not include hazardous waste as defined in sections 260.360 to 260.432, recovered materials, overburden, rock, tailings, matte, slag or other waste material resulting from mining, milling or smelting;

(35) "Solid waste disposal area", any area used for the disposal of solid waste from more than one residential premises, or one or more commercial, industrial, manufacturing, recreational, or governmental operations;

(36) "Solid waste fee", a fee imposed pursuant to sections 260.200 to 260.345 and may be:

(a) A solid waste collection fee imposed at the point of waste collection; or

(b) A solid waste disposal fee imposed at the disposal site;

(37) "Solid waste management area", a solid waste disposal area which also includes one or more of the functions contained in the definitions of recycling, resource recovery facility, waste tire collection center, waste tire processing facility, waste tire site or solid waste processing facility, excluding incineration;

(38) "Solid waste management system", the entire process of managing solid waste in a manner which minimizes the generation and subsequent disposal of solid waste, including waste reduction, source separation, collection, storage, transportation, recycling, resource recovery, volume minimization, processing, market development, and disposal of solid wastes;

(39) "Solid waste processing facility", any facility where solid wastes are salvaged and processed, including:

(a) A transfer station; or

(b) An incinerator which operates with or without energy recovery but excluding waste tire end-user facilities; or

(c) A material recovery facility which operates with or without composting;

(40) "Solid waste technician", an individual who has successfully completed training in the practical aspects of the design, operation and maintenance of a permitted solid waste processing facility or solid waste disposal area in accordance with sections 260.200 to 260.345;

(41) "Tire", a continuous solid or pneumatic rubber covering encircling the wheel of any self-propelled vehicle not operated exclusively upon tracks, or a trailer as defined in chapter 301, RSMo, except farm tractors and farm implements owned and operated by a family farm or family farm corporation as defined in section 350.010, RSMo;

(42) "Used motor oil", any motor oil which, as a result of use, becomes unsuitable for its original purpose due to loss of original properties or the presence of impurities, but used motor oil shall not include ethylene glycol, oils used for solvent purposes, oil filters that have been drained of free flowing used oil, oily waste, oil recovered from oil tank cleaning operations, oil spilled to land or water, or industrial nonlube oils such as hydraulic oils, transmission oils, quenching oils, and transformer oils;

(43) "Utility waste landfill", a solid waste disposal area used for fly ash waste, bottom ash waste, slag waste and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels;

(44) "Waste tire", a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect;

(45) "Waste tire collection center", a site where waste tires are collected prior to being offered for recycling or processing and where fewer than five hundred tires are kept on site on any given day;

(46) "Waste tire end-user facility", a site where waste tires are used as a fuel or fuel supplement or converted into a useable product. Baled or compressed tires used in structures, or used at recreational facilities, or used for flood or erosion control shall be considered an end use;

(47) "Waste tire generator", a person who sells tires at retail or any other person, firm, corporation, or government entity that generates waste tires;

(48) "Waste tire processing facility", a site where tires are reduced in volume by shredding, cutting, chipping or otherwise altered to facilitate recycling, resource recovery or disposal;

(49) "Waste tire site", a site at which five hundred or more waste tires are accumulated, but not including a site owned or operated by a waste tire end-user that burns waste tires for the generation of energy or converts waste tires to a useful product;

(50) "Yard waste", leaves, grass clippings, yard and garden vegetation and Christmas trees. The term does not include stumps, roots or shrubs with intact root balls.

(L. 1972 S.B. 387 § 1, A.L. 1975 S.B. 98, A.L. 1986 S.B. 475, A.L. 1988 H.B. 1207, A.L. 1990 S.B. 530, A.L. 1993 S.B. 80, et al., A.L. 1995 H.B. 81 merged with S.B. 60 & 112, A.L. 2002 S.B. 984 & 985)

Infectious waste, treatment of--hospitals, department of health and senior services to promulgate rules--transportation of--registration of hospitals--proper disposal, penalty--fee on delivery, exceptions--inspection fee, amount, fund, refund of, when.

260.203. 1. Any infectious waste transferred from the premises of the generator shall be taken to an infectious waste processing facility that holds a valid permit issued by the department, or a hospital as defined in section 197.020, RSMo.

2. No infectious waste shall be placed into a solid waste disposal area except as otherwise provided for in sections 260.200 to 260.245 unless it has been treated or rendered innocuous by a permitted infectious waste processing facility as provided in sections 260.200 to 260.245, or by a hospital as defined in section 197.020, RSMo, by autoclaving, incineration, chemical disinfection, or other methods of treatment approved by the department. The department of health and senior services shall promulgate rules covering the handling and treatment of infectious waste by hospitals as defined in section 197.020, RSMo, and such rules shall be consistent with the rules of the department under sections 260.200 to 260.245, and shall be effective no later than January 1, 1989.

3. All such wastes, when transported off the premises of the generator shall be packaged and transported as provided by rule under sections 260.200 to 260.245, except that hospitals and small quantity generators as defined by the department under this section may transport infectious waste to a hospital for treatment, an infectious waste processing facility for treatment or to a central collection point using their employees and vehicles as long as they meet all other requirements of sections 260.200 to 260.245 and the rules and regulations promulgated under sections 260.200 to 260.245.

4. The department of health and senior services shall provide for a registration process for all hospitals pursuant to the provisions of sections 260.200 to 260.245 and section 192.005, RSMo. The process shall include a completed and signed application on forms provided by the department of health and senior services. The forms shall contain the following:

(1) A statement certifying that the applicant understands and will comply with the applicable requirements of sections 260.200 to 260.245; and

(2) Other requirements established by the department of health and senior services.

5. Registrations shall be renewed annually.

6. Unless otherwise provided for in sections 260.200 to 260.245, any person who treats infectious waste to the specifications of the department of natural resources or the department of health and senior services, and who proposes to dispose of the residue thereof in a sanitary landfill shall properly identify the waste and shall certify to the transporter and the sanitary landfill operator that the waste has been rendered innocuous and may be legally placed in a sanitary landfill pursuant to the provisions of this section. Persons found to be in violation of this subsection shall be guilty of a class A misdemeanor.

7. Facilities permitted to treat infectious waste shall adhere to an operation plan for the handling and treatment of infectious waste approved by the department of natural resources as provided by rule, and hospitals, as defined in section 197.020, RSMo, allowed to treat infectious waste shall adhere to an operation plan for the handling and treatment of infectious waste approved by the department of health and senior services as provided by rule. The plan shall include, but not be limited to, methods of handling and treating the waste, protection of employees and the public and the maximum amount of waste which may be handled per month. Approval for acceptance of infectious waste may be withdrawn for noncompliance with the operation plan. No permitted infectious waste treatment facility shall operate unless it has a solid waste technician trained in the handling of infectious waste on site during any treatment process. Such operator shall meet the requirements established by the department pursuant to section 260.205.

8. Any transporter or generator who delivers infectious waste to an infectious waste processing facility, except small quantity generators and hospitals located in Missouri and defined in section 197.020, RSMo, shall pay a fee of two dollars for each ton of infectious waste so delivered. Such fees shall be collected by the infectious waste processing facility accepting the waste and transmitted to the department. The department shall promptly transmit funds collected under this section to the director of the department of revenue for deposit in the solid waste management fund. Moneys, upon appropriation, shall be used to help pay for the administrative costs associated with infectious waste management. Any transporter or generator who transports infectious waste for more than three hundred miles for management in Missouri shall pay, in addition to the charges above, an additional charge equal to ten percent of the gross charge charged by the processing facility for the management of such waste. Such fees shall be collected by the infectious waste processing facility accepting the waste and transmitted to the department which shall promptly transmit such fees to the department of revenue for deposit in the general revenue fund.

9. Hospitals defined in chapter 197, RSMo, and located in Missouri, may manage infectious waste generated on the premises by autoclaving, incineration, chemical disinfection or other methods of treatment approved by the department of health and senior services. Such

hospitals may also treat infectious waste produced by small quantity generators and other hospitals located in Missouri upon the approval of the department of natural resources and the department of health and senior services. Failure of either department to respond by issuing a certification to accept infectious waste in writing to a hospital which has filed in writing to both departments a notice of intent to treat waste from another hospital within ninety days constitutes approval of the treatment. All hospitals licensed by the state of Missouri pursuant to chapter 197, RSMo, are exempt from all taxes or fees imposed pursuant to sections 260.350 to 260.480, provided that no more than twenty-five percent, by weight, of the infectious waste managed by such hospitals is produced by other generators which are not owned or operated by the hospital.

10. Persons generating one hundred kilograms or less of infectious waste per month are exempt from the provisions of this section except that the department of health and senior services shall specify by rule, in accordance with section 192.005, RSMo, infectious waste that shall be rendered innocuous regardless of quantity. Any person who disposes of waste exempt from the provisions of this act* in a sanitary landfill shall certify to the transporter or the sanitary landfill operator that the waste has been handled in a manner consistent with the law and may be legally placed in a sanitary landfill. Rules promulgated by the department of natural resources and the department of health and senior services pursuant to this subsection shall be effective no later than July 1, 1989. Persons found to be in violation of this subsection shall be guilty of a class A misdemeanor.

11. A generator of infectious waste who operates single or multiple site research facilities for research and experimental activities as defined in section 174 of the 1986 Internal Revenue Code, who generates such waste as a part of research and experimentation activities, and who manages such waste on site, shall not be required to obtain an infectious waste processing facility permit under this section to manage infectious waste. The generator may accept infectious waste from other sites of the parent research company located in Missouri but shall not accept infectious waste from other sources and shall comply with all other requirements and provisions of sections 260.200 to 260.245, and the rules and regulations promulgated thereunder. The University of Missouri Ellis Fischel Cancer Center and the other facilities of the University of Missouri-Columbia shall be considered a multiple site research facility for the purposes of this section.

12. Nothing in this section shall prohibit the transportation of infectious or hazardous waste from the state of Missouri for management in another state.

13. The department of natural resources shall establish, by rule, inspection fees to be paid to the department by owners or operators of commercial infectious waste incinerators. The fees shall not exceed the costs of the inspections and shall not exceed ten thousand dollars per year for a facility. Funds derived from these inspection fees shall be used for the purpose of funding the inspection of commercial infectious waste incinerators.

14. All owners or operators of commercial infectious waste incinerators shall pay the fees, established by the department by rule, for inspections conducted by the department pursuant to this section.

15. There is hereby created the "Infectious Waste Incinerator Inspection Fund". All funds received from infectious waste incinerator inspection fees shall be paid to the director of the department of revenue and deposited in the state treasury to the credit of the infectious waste incinerator inspection fund. Moneys from such fund shall be used by the department of natural resources for conducting inspections at commercial infectious waste incinerators.

16. The department shall furnish to the person, firm or corporation operating the commercial infectious waste facility a complete, full and detailed accounting of the cost of the department's inspection of the facility each time the facility is inspected within thirty days after the inspection is commenced. Failure to do so shall require the department to refund the inspection fee.

(L. 1986 S.B. 475, A.L. 1988 S.B. 535, A.L. 1992 H.B. 1732, A.L. 1993 S.B. 80, et al.)

*"This act" (S.B. 535, 1988) contained numerous sections. Consult Disposition of Sections table for a definitive listing.

Permit for treatment of infectious waste, not to be issued, when.

260.204. No person shall be issued a permit to operate a facility for the treatment of infectious waste who in 1987 received a clean air permit and thereafter operated a facility for the treatment of infectious waste by incineration without applying for and receiving a permit as a solid waste processing facility permitted pursuant to section 260.203 or a hazardous waste facility permitted pursuant to sections 260.350 to 260.430.

(L. 1988 S.B. 535)

Effective 5-5-88

(1990) Statute is a bill of attainder and special legislation where it singled out for legislative punishment those who in a specified year operated an infectious waste incinerator without particular permits but excluded others similarly situated. Statute is unconstitutional and invalid in its entirety. (Mo.banc) Bunker Res. Recycling & Rec. v. Mehan, 782 S.W.2d 381.

(1990) Where statute which prohibits issuance of permit to operate infectious waste treatment facility applies only to those persons or entities who received clean air permit in 1987, statute is a prohibited special law under the Missouri Constitution, since no reasonable basis existed for differential treatment of infectious waste disposers who received clean air permits in that year. Bunker Resource Recycling and Reclamation, Inc. v. Mehan, 782 S.W.2d 381 (Mo.banc.).

Permit required to operate facility, and construction permit to construct facility, requirements, exceptions, fees--plans to be submitted--permits revoked or suspended, when--disclosure statement, required when.

260.205. 1. It shall be unlawful for any person to operate a solid waste processing facility or solid waste disposal area of a solid waste management system without first obtaining an operating permit from the department. It shall be unlawful for any person to construct a solid waste processing facility or solid waste disposal area without first obtaining a construction permit from the department pursuant to this section. A current authorization to operate issued by the department pursuant to sections 260.200 to 260.345 shall be considered to be a permit to operate for purposes of this section for all solid waste disposal areas and processing facilities existing on August 28, 1995. A permit shall not be issued for a sanitary landfill to be located in a flood area, as determined by the department, where flood waters are likely to significantly erode final cover. A permit shall not be required to operate a waste stabilization lagoon, settling pond

or other water treatment facility which has a valid permit from the Missouri clean water commission even though the facility may receive solid or semisolid waste materials.

2. No person or operator may apply for or obtain a permit to construct a solid waste disposal area unless the person has requested the department to conduct a preliminary site investigation and obtained preliminary approval from the department. The department shall, within sixty days of such request, conduct a preliminary investigation and approve or disapprove the site.

3. All proposed solid waste disposal areas for which a preliminary site investigation request pursuant to subsection 2 of this section is received by the department on or after August 28, 1999, shall be subject to a public involvement activity as part of the permit application process. The activity shall consist of the following:

(1) The applicant shall notify the public of the preliminary site investigation approval within thirty days after the receipt of such approval. Such public notification shall be by certified mail to the governing body of the county or city in which the proposed disposal area is to be located and by certified mail to the solid waste management district in which the proposed disposal area is to be located;

(2) Within ninety days after the preliminary site investigation approval, the department shall conduct a public awareness session in the county in which the proposed disposal area is to be located. The department shall provide public notice of such session by both printed and broadcast media at least thirty days prior to such session. Printed notification shall include publication in at least one newspaper having general circulation within the county in which the proposed disposal area is to be located. Broadcast notification shall include public service announcements on radio stations that have broadcast coverage within the county in which the proposed disposal area is to be located. The intent of such public awareness session shall be to provide general information to interested citizens on the design and operation of solid waste disposal areas;

(3) At least sixty days prior to the submission to the department of a report on the results of a detailed site investigation pursuant to subsection 4 of this section, the applicant shall conduct a community involvement session in the county in which the proposed disposal area is to be located. Department staff shall attend any such session. The applicant shall provide public notice of such session by both printed and broadcast media at least thirty days prior to such session. Printed notification shall include publication in at least one newspaper having general circulation within the county in which the proposed disposal area is to be located. Broadcast notification shall include public service announcements on radio stations that have broadcast coverage within the county in which the proposed disposal area is to be located. Such public notices shall include the addresses of the applicant and the department and information on a public comment period. Such public comment period shall begin on the day of the community involvement session and continue for at least thirty days after such session. The applicant shall respond to all persons submitting comments during the public comment period no more than thirty days after the receipt of such comments;

(4) If a proposed solid waste disposal area is to be located in a county or city that has local planning and zoning requirements, the applicant shall not be required to conduct a community involvement session if the following conditions are met:

- (a) The local planning and zoning requirements include a public meeting;
- (b) The applicant notifies the department of intent to utilize such meeting in lieu of the community involvement session at least thirty days prior to such meeting;
- (c) The requirements of such meeting include providing public notice by printed or broadcast media at least thirty days prior to such meeting;
- (d) Such meeting is held at least thirty days prior to the submission to the department of a report on the results of a detailed site investigation pursuant to subsection 4 of this section;
- (e) The applicant submits to the department a record of such meeting;
- (f) A public comment period begins on the day of such meeting and continues for at least fourteen days after such meeting, and the applicant responds to all persons submitting comments during such public comment period no more than fourteen days after the receipt of such comments.

4. No person may apply for or obtain a permit to construct a solid waste disposal area unless the person has submitted to the department a plan for conducting a detailed surface and subsurface geologic and hydrologic investigation and has obtained geologic and hydrologic site approval from the department. The department shall approve or disapprove the plan within thirty days of receipt. The applicant shall conduct the investigation pursuant to the plan and submit the results to the department. The department shall provide approval or disapproval within sixty days of receipt of the investigation results.

5. (1) Every person desiring to construct a solid waste processing facility or solid waste disposal area shall make application for a permit on forms provided for this purpose by the department. Every applicant shall submit evidence of financial responsibility with the application. Any applicant who relies in part upon a parent corporation for this demonstration shall also submit evidence of financial responsibility for that corporation and any other subsidiary thereof.

(2) Every applicant shall provide a financial assurance instrument or instruments to the department prior to the granting of a construction permit for a solid waste disposal area. The financial assurance instrument or instruments shall be irrevocable, meet all requirements established by the department and shall not be canceled, revoked, disbursed, released or allowed to terminate without the approval of the department. After the cessation of active operation of a sanitary landfill, or other solid waste disposal area as designed by the department, neither the guarantor nor the operator shall cancel, revoke or disburse the financial assurance instrument or allow the instrument to terminate until the operator is released from postclosure monitoring and care responsibilities pursuant to section 260.227.

(3) The applicant for a permit to construct a solid waste disposal area shall provide the department with plans, specifications, and such other data as may be necessary to comply with the purpose of sections 260.200 to 260.345. The application shall demonstrate compliance with all applicable local planning and zoning requirements. The department shall make an investigation of the solid waste disposal area and determine whether it complies with the provisions of sections 260.200 to 260.345 and the rules and regulations adopted pursuant to sections 260.200 to 260.345. Within twelve consecutive months of the receipt of an application for a construction permit the

department shall approve or deny the application. The department shall issue rules and regulations establishing time limits for permit modifications and renewal of a permit for a solid waste disposal area. The time limit shall be consistent with this chapter.

(4) The applicant for a permit to construct a solid waste processing facility shall provide the department with plans, specifications and such other data as may be necessary to comply with the purpose of sections 260.200 to 260.345. Within one hundred eighty days of receipt of the application, the department shall determine whether it complies with the provisions of sections 260.200 to 260.345. Within twelve consecutive months of the receipt of an application for a permit to construct an incinerator as defined in section 260.200 or a material recovery facility as defined in section 260.200, and within six months for permit modifications, the department shall approve or deny the application. Permits issued for solid waste facilities shall be for the anticipated life of the facility.

(5) If the department fails to approve or deny an application for a permit or a permit modification within the time limits specified in subdivisions (3) and (4) of this subsection, the applicant may maintain an action in the circuit court of Cole County or that of the county in which the facility is located or is to be sited. The court shall order the department to show cause why it has not acted on the permit and the court may, upon the presentation of evidence satisfactory to the court, order the department to issue or deny such permit or permit modification. Permits for solid waste disposal areas, whether issued by the department or ordered to be issued by a court, shall be for the anticipated life of the facility.

(6) The applicant for a permit to construct a solid waste processing facility shall pay an application fee of one thousand dollars. Upon completion of the department's evaluation of the application, but before receiving a permit, the applicant shall reimburse the department for all reasonable costs incurred by the department up to a maximum of four thousand dollars. The applicant for a permit to construct a solid waste disposal area shall pay an application fee of two thousand dollars. Upon completion of the department's evaluations of the application, but before receiving a permit, the applicant shall reimburse the department for all reasonable costs incurred by the department up to a maximum of eight thousand dollars. Applicants who withdraw their application before the department completes its evaluation shall be required to reimburse the department for costs incurred in the evaluation. The department shall not collect the fees authorized in this subdivision unless it complies with the time limits established in this section.

(7) When the review reveals that the facility or area does conform with the provisions of sections 260.200 to 260.345 and the rules and regulations adopted pursuant to sections 260.200 to 260.345, the department shall approve the application and shall issue a permit for the construction of each solid waste processing facility or solid waste disposal area as set forth in the application and with any permit terms and conditions which the department deems appropriate. In the event that the facility or area fails to meet the rules and regulations adopted pursuant to sections 260.200 to 260.345, the department shall issue a report to the applicant stating the reason for denial of a permit.

6. Plans, designs, and relevant data for the construction of solid waste processing facilities and solid waste disposal areas shall be submitted to the department by a registered

professional engineer licensed by the state of Missouri for approval prior to the construction, alteration or operation of such a facility or area.

7. Any person or operator as defined in section 260.200 who intends to obtain a construction permit in a solid waste management district with an approved solid waste management plan shall request a recommendation in support of the application from the executive board created in section 260.315. The executive board shall consider the impact of the proposal on, and the extent to which the proposal conforms to, the approved district solid waste management plan prepared pursuant to section 260.325. The executive board shall act upon the request for a recommendation within sixty days of receipt and shall submit a resolution to the department specifying its position and its recommendation regarding conformity of the application to the solid waste plan. The board's failure to submit a resolution constitutes recommendation of the application. The department may consider the application, regardless of the board's action thereon and may deny the construction permit if the application fails to meet the requirements of sections 260.200 to 260.345, or if the application is inconsistent with the district's solid waste management plan.

8. If the site proposed for a solid waste disposal area is not owned by the applicant, the owner or owners of the site shall acknowledge that an application pursuant to sections 260.200 to 260.345 is to be submitted by signature or signatures thereon. The department shall provide the owner with copies of all communication with the operator, including inspection reports and orders issued pursuant to section 260.230.

9. The department shall not issue a permit for the operation of a solid waste disposal area designed to serve a city with a population of greater than four hundred thousand located in more than one county, if the site is located within one-half mile of an adjoining municipality, without the approval of the governing body of such municipality. The governing body shall conduct a public hearing within fifteen days of notice, shall publicize the hearing in at least one newspaper having general circulation in the municipality, and shall vote to approve or disapprove the land disposal facility within thirty days after the close of the hearing.

10. Upon receipt of an application for a permit to construct a solid waste processing facility or disposal area, the department shall notify the public of such receipt:

(1) By legal notice published in a newspaper of general circulation in the area of the proposed disposal area or processing facility;

(2) By certified mail to the governing body of the county or city in which the proposed disposal area or processing facility is to be located; and

(3) By mail to the last known address of all record owners of contiguous real property or real property located within one thousand feet of the proposed disposal area and, for a proposed processing facility, notice as provided in section 64.875, RSMo, or section 89.060, RSMo, whichever is applicable.

(4) If an application for a construction permit meets all statutory and regulatory requirements for issuance, a public hearing on the draft permit shall be held by the department in the county in which the proposed solid waste disposal area is to be located prior to the issuance of the permit. The department shall provide public notice of such hearing by both printed and broadcast media at least thirty days prior to such hearing. Printed notification shall include publication in at least one newspaper having general circulation within the county in which the proposed disposal area is to be located. Broadcast notification shall include public service announcements on radio stations that

have broadcast coverage within the county in which the proposed disposal area is to be located.

11. After the issuance of a construction permit for a solid waste disposal area, but prior to the beginning of disposal operations, the owner and the department shall execute an easement to allow the department, its agents or its contractors to enter the premises to complete work specified in the closure plan, or to monitor or maintain the site or to take remedial action during the postclosure period. After issuance of a construction permit for a solid waste disposal area, but prior to the beginning of disposal operations, the owner shall submit evidence that he or she has recorded, in the office of the recorder of deeds in the county where the disposal area is located, a notice and covenant running with the land that the property has been permitted as a solid waste disposal area and prohibits use of the land in any manner which interferes with the closure and, where appropriate, postclosure plans filed with the department.

12. Every person desiring to obtain a permit to operate a solid waste disposal area or processing facility shall submit applicable information and apply for an operating permit from the department. The department shall review the information and determine, within sixty days of receipt, whether it complies with the provisions of sections 260.200 to 260.345 and the rules and regulations adopted pursuant to sections 260.200 to 260.345. When the review reveals that the facility or area does conform with the provisions of sections 260.200 to 260.345 and the rules and regulations adopted pursuant to sections 260.200 to 260.345, the department shall issue a permit for the operation of each solid waste processing facility or solid waste disposal area and with any permit terms and conditions which the department deems appropriate. In the event that the facility or area fails to meet the rules and regulations adopted pursuant to sections 260.200 to 260.345, the department shall issue a report to the applicant stating the reason for denial of a permit.

13. Each solid waste disposal area, except utility waste landfills unless otherwise and to the extent required by the department, and those solid waste processing facilities designated by rule, shall be operated under the direction of a certified solid waste technician in accordance with sections 260.200 to 260.345 and the rules and regulations promulgated pursuant to sections 260.200 to 260.345.

14. Base data for the quality and quantity of groundwater in the solid waste disposal area shall be collected and submitted to the department prior to the operation of a new or expansion of an existing solid waste disposal area. Base data shall include a chemical analysis of groundwater drawn from the proposed solid waste disposal area.

15. Leachate collection and removal systems shall be incorporated into new or expanded sanitary landfills which are permitted after August 13, 1986. The department shall assess the need for a leachate collection system for all types of solid waste disposal areas, other than sanitary landfills, and the need for monitoring wells when it evaluates the application for all new or expanded solid waste disposal areas. The department may require an operator of a solid waste disposal area to install a leachate collection system before the beginning of disposal operations, at any time during disposal operations for unfilled portions of the area, or for any portion of the disposal area as a part of a remedial plan. The department may require the operator to install monitoring wells before the beginning of disposal operations or at any time during the operational life or postclosure care period if it concludes that conditions at the area warrant such monitoring. The operator of a demolition landfill or utility waste landfill shall not be required to install a leachate collection and removal system or monitoring wells unless otherwise and to the

extent the department so requires based on hazardous waste characteristic criteria or site specific geohydrological characteristics or conditions.

16. Permits granted by the department, as provided in sections 260.200 to 260.345, shall be subject to suspension for a designated period of time, civil penalty or revocation whenever the department determines that the solid waste processing facility or solid waste disposal area is, or has been, operated in violation of sections 260.200 to 260.345 or the rules or regulations adopted pursuant to sections 260.200 to 260.345, or has been operated in violation of any permit terms and conditions, or is creating a public nuisance, health hazard, or environmental pollution. In the event a permit is suspended or revoked, the person named in the permit shall be fully informed as to the reasons for such action.

17. Each permit for operation of a facility or area shall be issued only to the person named in the application. Permits are transferable as a modification to the permit. An application to transfer ownership shall identify the proposed permittee. A disclosure statement for the proposed permittee listing violations contained in subsection 19 of this section shall be submitted to the department. The operation and design plans for the facility or area shall be updated to provide compliance with the currently applicable law and rules. A financial assurance instrument in such an amount and form as prescribed by the department shall be provided for solid waste disposal areas by the proposed permittee prior to transfer of the permit. The financial assurance instrument of the original permittee shall not be released until the new permittee's financial assurance instrument has been approved by the department and the transfer of ownership is complete.

18. Those solid waste disposal areas permitted on January 1, 1996, shall, upon submission of a request for permit modification, be granted a solid waste management area operating permit if the request meets reasonable requirements set out by the department.

19. In case a permit required pursuant to this section is denied or revoked, the person may request a hearing in accordance with section 260.235.

20. Any person seeking a permit or renewal of a permit to operate a commercial solid waste processing facility, or a solid waste disposal area shall, concurrently with the filing of application for a permit, file a disclosure statement with the department of natural resources. The disclosure statement shall include, but not be limited to, a listing of any felony convictions by state or federal agencies, and a listing of other enforcement actions, sanctions, permit revocations or denials by any state or federal authority of every person seeking a permit, including officers, directors, partners and facility or location managers of each person seeking a permit, any violations of Missouri environmental statutes, violations of the environmental statutes of other states or federal statutes and a listing of convictions for any crimes or criminal acts, an element of which involves restraint of trade, price-fixing, intimidation of the customers of another person or for engaging in any other acts which may have the effect of restraining or limiting competition concerning activities regulated pursuant to this chapter or similar laws of other states or the federal government; except that convictions for violations by entities purchased or acquired by an applicant or permittee which occurred prior to the purchase or acquisition shall not be included. The department shall by rule, define those environmental violations which must be reported pursuant to this section. For purposes of this section, additional persons as required by rule shall be named in the statement and violations or convictions of such persons shall be listed. The department or its representative shall verify the information provided on the disclosure statement prior to permit issuance. The disclosure statement shall be used by the department in

determining whether a permit should be granted or denied on the basis of the applicant's status as a habitual violator; however, the department has the authority to make a habitual violator determination independent of the information contained in the disclosure statement. After permit issuance, each facility shall annually file an updated disclosure statement with the department of natural resources on or before March thirty-first of each year. Any county, district, municipality, authority or other political subdivision of this state which owns and operates a sanitary landfill shall be exempt from the provisions of this subsection.

21. Any person seeking a permit to operate a solid waste disposal area, a solid waste processing facility or a resource recovery facility shall, concurrently with the filing of the application for a permit, disclose any convictions in this state of municipal or county public health or land use ordinances related to the management of solid waste. If the department finds that there has been a continuing pattern of serious adjudicated violations by the applicant, the department may deny the application.

22. No permit to construct or permit to operate shall be required pursuant to this section for any utility waste landfill located in a county of the third classification with a township form of government which has a population of at least eleven thousand inhabitants and no more than twelve thousand five hundred inhabitants according to the most recent decennial census, if such utility waste landfill complies with all design and operating standards and closure requirements applicable to utility waste landfills pursuant to sections 260.200 to 260.345 and provided that no waste disposed of at such utility waste landfill is considered hazardous waste pursuant to the Missouri hazardous waste law.

(L. 1972 S.B. 387 § 2, A.L. 1975 S.B. 98, A.L. 1986 S.B. 475, A.L. 1988 H.B. 1207 merged with S.B. 535, A.L. 1990 S.B. 530, A.L. 1991 S.B. 45, A.L. 1995 S.B. 60 & 112, A.L. 1999 H.B. 603, et al.)

Owner or operator shall provide quality assurance and quality control oversight of inspections during area closure, postclosure and corrective action plans, requirements--department may suspend, revoke or modify permit.

260.206. 1. The owner or operator of a solid waste disposal area shall provide for quality assurance and quality control oversight of inspections during implementation of approved solid waste disposal area closure, postclosure, and corrective action plans. The quality assurance and quality control of inspections shall be conducted for conformance with department-approved plans, specifications, operating procedures, and monitoring programs, and for compliance with any rules or regulations promulgated. For the purposes of this section, all quality assurance and quality control oversight of inspections shall be conducted by a person possessing qualifications specified in rules promulgated by the department. The person performing quality assurance and quality control oversight shall certify that the inspections meet all requirements of applicable law and rules.

2. The department reserves the right to suspend, revoke, or modify the permit if the solid waste disposal area construction or operation does not comply with department-approved plans and specifications, operating procedures, monitoring programs, or any rules governing its design or operation.

(L. 1995 S.B. 60 & 112)

Permit not to be issued, when--notice to department of certain crimes, penalty for failure to notify--reinstatement, when.

260.207. 1. The department of natural resources shall not issue a permit to any person for the operation of any solid waste processing facility or solid waste disposal area pursuant to sections 260.200 to 260.345 if such person has been determined to habitually violate Missouri environmental statutes, the environmental statutes of other states or federal statutes pertaining to environmental control or if such person has had three or more convictions, which convictions occurred after August 28, 1990, and within any five-year period, within a court of the United States or of any state other than Missouri or has had two or more convictions within Missouri, after August 28, 1990, and within any five-year period, for any crimes or criminal acts, an element of which involves restraint of trade, price-fixing, intimidation of the customers of another person or for engaging in any other acts which may have the effect of restraining or limiting competition concerning activities regulated under this chapter or similar laws of other states or the federal government; except that convictions for violations by entities purchased or acquired by an applicant or permittee which occurred prior to the purchase or acquisition shall not be included. For the purpose of this section the term "person" shall include any business organization or entity, successor corporation, partnership or subsidiary of any business organization or entity, and the owners and officers thereof, of the entity submitting the application.

2. The director shall suspend, revoke or not renew the permit of any person with a permit to operate any solid waste processing facility or solid waste disposal area if such person has been determined by the department of natural resources to habitually violate the requirements of the Missouri environmental statutes, of the environmental statutes of other states, or of federal statutes pertaining to environmental control, or if such person has had three or more convictions in any court of the United States or of any state other than Missouri or has had two or more convictions within Missouri of crimes as specified herein, if such convictions occur after August 28, 1990, and within any five-year period.

3. Any person applying for a permit to operate any facility pursuant to sections 260.200 to 260.345 shall notify the director of any conviction for a crime which would have the effect of limiting competition. Any person holding a permit shall notify the department of any such conviction of any crime as specified herein within thirty days of the conviction. Failure to notify the director is a class D felony and subject to a fine of one thousand dollars per day for each day unreported.

4. Any person who has had a permit denied, revoked or not renewed due to the provisions of this section may apply to the director for reinstatement after five years have elapsed from the time of the most recent conviction.

(L. 1990 S.B. 530, A.L. 1995 S.B. 60 & 112)

Contracts with specified parties prohibited, when--notice of certain convictions required, penalty.

260.208. No city, county, district, authority or other political subdivision of this state shall enter into a contract or other arrangement for solid waste management services with any person who has been convicted as set out in section 260.207, which convictions occur after August 28, 1990, and within any five-year period, except that the prohibitions of this section shall not apply to any person convicted as provided in section 260.207 after five years have elapsed from the most recent conviction. Any person submitting a bid to a city, county, district, authority or other political subdivision for a contract to provide solid waste management services who, after August 28, 1990, has been convicted of crimes which have the effect of limiting competition as set out in section 260.207, shall notify the city, county, district, authority or other political subdivision of such conviction with the submission of the bid. Any person with a contract for solid waste management services with a city, county, district, authority or other political subdivision of this state who is convicted of crimes which would have the effect of limiting competition as set out in section 260.207, shall notify the city, county, district, authority or other political subdivision of such conviction within thirty days of the conviction. Failure to notify the city, county, district, authority, or other political subdivision as required in this section is a class D felony and subject to a fine of one thousand dollars per day for each day unreported.

(L. 1990 S.B. 530)

Property acquired outside city, county or district for solid waste disposal, compliance with zoning ordinances required.

260.209. 1. Any district, city or county that acquires real or personal property in another incorporated city or in an unincorporated area of a county, by condemnation, purchase, gift, lease, sale or otherwise to establish, operate, maintain, construct, improve, own, control or regulate waste to energy plants, incinerators, recycling centers, processing plants, composting areas, transfer stations, solid waste processing facilities, solid waste disposal area, treatment facilities, storage facilities, or other management areas, shall be subject to and comply with any and all zoning ordinances of the city in which such acquisition was made or if such acquisition is located within an unincorporated area of a county, then such district, city or county making the acquisition shall be subject to and comply with all zoning requirements and ordinances of the county in which the acquisition was made.

2. After August 28, 1999, no political subdivision shall be granted any permit, license, or grant of authority to own, operate or control any land outside its boundaries and used for any purpose subject to regulation pursuant to sections 260.200 to 260.345 without meeting the zoning requirements of the political subdivision in which the land is located in effect on the date of application.

(L. 1990 S.B. 530, A.L. 1992 H.B. 1732, A.L. 1999 H.B. 603, et al.)

Prohibited acts, exception--search warrants to issue, when --investigations, department may conduct, how--demolition waste, disposal of, requirements--building permits, notice of disposal of demolition waste required, form--exceptions--exceptions for Kansas City.

260.210. 1. It is unlawful for any person to:

(1) Dump or deposit, or permit dumping or depositing of any solid wastes onto the surface of the ground or into streams, springs, and all bodies of surface or ground water, whether natural or artificial, within the boundaries of the state except in a solid waste processing facility or solid waste disposal area having a permit as required by section 260.205; provided that, this subdivision shall not prohibit the use or require a permit for the use of solid wastes in normal farming operations or in the processing or manufacturing of other products in a manner that will not create a public nuisance or adversely affect the public health, and shall not prohibit the disposal of or require a permit for the disposal by an individual of solid wastes resulting from his or her own residential activities on property owned or lawfully occupied by him or her when such wastes do not thereby create a public nuisance or adversely affect the public health;

(2) Construct or alter a solid waste processing facility or solid waste disposal area of a solid waste management system without approval from the department;

(3) Conduct any solid waste burning operations in violation of the rules and regulations of the Missouri air conservation commission or the department;

(4) Except as otherwise provided, store, collect, transport, process, or dispose of solid waste in violation of the rules, regulations or orders of the department or in such a manner as to create a public nuisance or adversely affect the public health; or

(5) Refuse entry or access, requested for purposes of inspecting solid waste processing facilities or solid waste disposal areas, to an agent or employee of the department who presents appropriate credentials, or hinder the agent or employee in carrying out the inspection. A suitably restricted search warrant, upon a showing of probable cause in writing and upon oath, shall be issued by any circuit or associate circuit judge having jurisdiction to any such agent or employee for the purpose of enabling him to make such inspection.

2. Information obtained from waste disposed or deposited in violation of this section may be a rebuttable presumption that the person so identified committed the violation of sections 260.200 to 260.345. If the operator or passenger of any vehicle is witnessed by a peace officer or employee of the department of natural resources to have violated the provisions of this section and the identity of the operator is not determined or otherwise apparent, it may be a rebuttable presumption that the person in whose name such vehicle is registered committed the violation.

3. No person shall be held responsible pursuant to this section for the dumping or depositing of any solid waste on land owned or lawfully occupied by him or her without his or her express or implied consent, permission or knowledge.

4. The department shall investigate reports of the dumping or depositing of solid waste or demolition waste in a manner contrary to the requirements of sections 260.200 to 260.345. The

department shall immediately issue a cease and desist order if it determines that any person has been or is dumping or depositing solid waste or demolition waste, or has allowed the dumping or disposal of solid waste or demolition waste or has received compensation for same, in a manner contrary to sections 260.200 to 260.345. The department shall order the owner of the property or the person placing solid waste or demolition waste thereon, or both, to remove all solid waste from the premises if it determines that the waste might be reasonably expected to cause a public nuisance or health hazard.

5. The department shall order a site cleaned up pursuant to the provisions of section 260.230, when it determines that the property owner or the operator has accepted remuneration or otherwise benefited financially for placing solid waste or demolition waste in or on the site in contravention of this section. Persons who knowingly haul solid waste or demolition waste to a site which is operating without a permit, persons who operate such a site and persons who own the property where the solid waste or demolition waste is being dumped or deposited shall be jointly and severally liable for cleanup costs and any damage to third parties caused by the dumping or disposing of solid waste or demolition waste on the property if the owner or operator has accepted remuneration or otherwise benefited financially from such disposal. The provisions of sections 260.230 and 260.240, relating to the issuance of orders, shall be applicable to an action pursuant to this section. Any person aggrieved by any action of the department pursuant to this section may appeal in the manner provided in section 260.235. Any person may bring civil action for actual and exemplary damages against the responsible party if the person has sustained injury due to violations of this section.

6. Notwithstanding subsection 1 of section 260.250, any solid waste disposal area or solid waste processing facility serving a city with a population of more than four hundred thousand inhabitants may accept yard waste commingled with solid waste that results from an illegal dump cleanup activity or program conducted by the local government of such city pursuant to this section. The local government of such city shall provide certification to the solid waste disposal area or solid waste processing facility that the origin of the yard waste is from the cleanup of illegally dumped solid waste.

7. Any person who engages in building construction, modification or in construction, modification or demolition which produces demolition waste, in types and quantities established by the department, shall dispose of such waste in a demolition or sanitary landfill or other authorized sites as provided by rule. Each such person shall maintain records of sites used for demolition disposal for a period of one year. These records shall be made available to the department upon request.

8. Cities and counties which issue building permits shall reprint the following on each permit or on a separate notice: "Notice: The disposal of demolition waste is regulated by the department of natural resources pursuant to chapter 260, RSMo. Such waste, in types and quantities established by the department, shall be taken to a demolition landfill or a sanitary landfill for disposal."

9. A demolition landfill may accept clean fill, waste resulting from building or demolishing structures and all other waste not required to be placed in a sanitary landfill or a hazardous waste disposal facility for final disposition.

10. Notwithstanding subsection 7 of this section, certain wastes may be disposed of as provided by this subsection:

(1) A person engaged in any activity which produces clean fill may use such material for fill, reclamation or other beneficial purposes on his or her own property or on the property of another person with the permission of the owner of such property, provided that such use does not violate any state law or local ordinance or order;

(2) A person engaged in any activity which produces wood waste may reuse or recycle such waste or may dispose of wood waste on the site where generated if such disposal is in compliance with applicable state law or local ordinances or orders;

(3) A person who engages in clearance, trimming or removal of trees, brush or other vegetation may use wood wastes from such activities for beneficial purposes including, but not limited to, firewood, ground cover, erosion control, mulch, compost or cover for wildlife.

(L. 1972 S.B. 387 § 3, A.L. 1975 S.B. 98, A.L. 1978 H.B. 1634, A.L. 1990 S.B. 530, A.L. 2000 H.B. 1238)

Demolition waste, criminal disposition of--degrees, penalties.

260.211. 1. A person commits the offense of criminal disposition of demolition waste in the first degree if he purposely or knowingly disposes of or causes the disposal of more than two thousand pounds or four hundred cubic feet of such waste in violation of section 260.210. Demolition waste shall not include clean fill or vegetation. Criminal disposition of demolition waste in the first degree is a class A misdemeanor. In addition to other penalties prescribed by law, a person convicted of criminal disposition of demolition waste in the first degree is subject to a fine not to exceed twenty thousand dollars, except as provided below. The magnitude of the fine shall reflect the seriousness or potential seriousness of the threat to human health and the environment posed by the violation, but shall not exceed twenty thousand dollars, except that if a court of competent jurisdiction determines that the person responsible for illegal disposal of demolition waste under this subsection did so for remuneration as a part of an ongoing commercial activity, the court shall set a fine which reflects the seriousness or potential threat to human health and the environment which at least equals the economic gain obtained by the person, and such fine may exceed the maximum established herein.

2. The court shall order any person convicted of illegally disposing of demolition waste upon his own property for remuneration to clean up such waste and, if he fails to clean up the waste or if he is unable to clean up the waste, the court may notify the county recorder of the county containing the illegal disposal site. The notice shall be designed to be recorded on the record.

3. Any person who pleads guilty or is convicted of criminal disposition of demolition waste in the first degree a second or subsequent time shall be guilty of a class D felony, and subject to the penalties provided in subsection 1 of this section in addition to those penalties prescribed by law.

4. A person commits the offense of criminal disposition of demolition waste in the second degree if he purposely or knowingly disposes of or causes the disposal of less than the amount of demolition waste specified in subsection 1 of this section in violation of section 260.210. Criminal disposition of demolition waste in the second degree is a class C misdemeanor.

5. In addition to other penalties prescribed by law, a person convicted of criminal disposition of demolition waste in the second degree is subject to a fine, and the magnitude of the fine shall reflect the seriousness or potential seriousness of the threat to human health and the environment posed by the violation, but shall not exceed two thousand dollars.

6. Any person who pleads guilty or is convicted of criminal disposition of demolition waste in the second degree a second or subsequent time shall be guilty of a class D felony, and subject to the penalties provided in subsection 5 of this section in addition to those penalties prescribed by law.

7. The court may order restitution by requiring any person convicted under this section to clean up any demolition waste he illegally dumped and the court may require any such person to perform additional community service by cleaning up and properly disposing of demolition waste illegally dumped by other persons.

8. The prosecutor of any county or circuit attorney of any city not within a county may, by information or indictment, institute a prosecution for any violation of the provisions of this section.

(L. 1990 S.B. 530)

CROSS REFERENCE: Duty of prosecuting attorney, RSMo 577.071

Solid waste, criminal disposition of--degrees, penalties.

260.212. 1. A person commits the offense of criminal disposition of solid waste in the first degree if he purposely or knowingly disposes of or causes the disposal of more than five hundred pounds or one hundred cubic feet of commercial or residential solid waste on any property in this state other than a sanitary landfill in violation of section 260.210. Criminal disposition of solid waste in the first degree is a class A misdemeanor. In addition to other penalties prescribed by law, a person convicted of criminal disposition of solid waste in the first degree is subject to a fine, and the magnitude of the fine shall reflect the seriousness or potential seriousness of the threat to human health and the environment posed by the violation, but shall not exceed twenty thousand dollars, except that if a court of competent jurisdiction determines that the person responsible for illegal disposal of solid waste under this subsection did so for remuneration as a part of an ongoing commercial activity, the court shall set a fine which reflects the seriousness or potential threat to human health and the environment which at least equals the economic gain obtained by the person, and such fine may exceed the maximum established herein.

2. The court shall order any person convicted of illegally disposing of solid waste upon his own property for remuneration to clean up such waste and, if he fails to clean up the waste or if he is unable to clean up the waste, the court may notify the county recorder of the county containing the illegal disposal site. The notice shall be designed to be recorded on the record.

3. Any person who pleads guilty or is convicted of criminal disposition of solid waste in the first degree a second or subsequent time shall be guilty of a class D felony. If a court of competent jurisdiction determines that the person responsible for illegal disposal of solid waste under this subsection did so for remuneration as a part of an ongoing commercial activity, the court shall set a fine which reflects the seriousness or potential threat to human health and the environment which equals at least three times the economic gain obtained by the person, and such fine may exceed the maximum established in this section.

4. A person commits the offense of criminal disposition of solid waste in the second degree if he purposely or knowingly disposes of or causes the disposal of less than the amount of commercial or residential solid waste specified in subsection 1 of this section on any property in this state other than a permitted sanitary landfill in violation of section 260.210. Criminal disposition of solid waste in the second degree is a class C misdemeanor.

5. In addition to other penalties prescribed by law, a person convicted of criminal disposition of solid waste in the second degree is subject to a fine, and the magnitude of the fine shall reflect the seriousness or potential seriousness of the threat to human health and the environment posed by the violation, but shall not exceed two thousand dollars.

6. Any person who pleads guilty or is convicted of criminal disposition of solid waste in the second degree a second or subsequent time shall be guilty of a class D felony. If a court of competent jurisdiction determines that the person responsible for illegal disposal of solid waste under this subsection did so for remuneration as a part of an ongoing commercial activity, the court shall set a fine which reflects the seriousness or potential threat to human health and the environment which equals at least three times the economic gain obtained by the person, and such fine may exceed the maximum established in this subsection.

7. The court may order restitution by requiring any person convicted under this section to clean up any commercial or residential solid waste he illegally dumped and the court may require any such person to perform additional community service by cleaning up commercial or residential solid waste illegally dumped by other persons.

8. The prosecutor of any county or circuit attorney of any city not within a county may, by information or indictment, institute a prosecution for any violation of the provisions of this section.

9. Any person shall be guilty of conspiracy as defined in section 564.016, RSMo, if he knows or should have known that his agent or employee has committed the acts described in sections 260.210 to 260.212 while engaged in the course of employment.

(L. 1990 S.B. 530)

CROSS REFERENCE: Duty of prosecuting attorney, RSMo 577.071

Disclosure of landfill, sale of property, required.

260.213. No person may knowingly sell, convey or transfer title to any property that contains a permitted or unpermitted solid waste disposal site or demolition landfill, without disclosing to the buyer early in the negotiation process the existence and location of the site. The seller shall also notify the buyer that he may be assuming liability to the state for any remedial action at the site, except that the sale, conveyance or transfer of property shall not absolve any person responsible for the illegal disposition of solid waste, including the seller, of liability for any remedial action at the site.

(L. 1990 S.B. 530)

Solid wastes, how handled--duties of cities and counties--exemptions -- charges, how stated, how collected.

260.215. 1. Except as provided in subsection 4 of this section, each city and each county or a combination of cities and counties shall provide individually or collectively for the collection and disposal of solid wastes for those areas within its boundaries that are to be served by the solid waste management system; shall be responsible for implementing their approved plan required by section 260.220 as it relates to the storage, collection, transportation, processing, and disposal of their solid wastes; and may purchase all necessary equipment, acquire all necessary land, build any necessary buildings, incinerators, transfer stations, or other structures, lease or otherwise acquire the right to use land or equipment. Each city and county may levy and collect charges for the necessary cost of providing such services, and may levy an annual tax not to exceed ten cents on the one hundred dollars assessed valuation, as authorized by article X, section 11(c), of the constitution for public health purposes to implement a plan for solid waste management, and to do all other things necessary to provide for a proper and effective solid waste management system; except that, the county may not levy a service charge or annual tax upon the inhabitants of any incorporated city, town or village that has an approved plan for solid waste management, unless the city, town or village contracts with the county for solid waste management and consents to the county service charge or tax levy. The tax or service charge authorized by this section shall not be levied if the tax or service charge is levied pursuant to some other provision of law, but if a tax is levied for the operation of a sanitary landfill and such tax is less than the maximum amount authorized by this section, a tax in an amount equal to the difference between such tax and that authorized in this section may be levied and collected.

2. Any city or county may adopt ordinances or orders, rules, regulations, or standards for the storage, collection, transportation, processing or disposal of solid wastes which shall be in conformity with the rules and regulations adopted by the department for solid waste management systems. Nothing in sections 260.200 to 260.245 shall usurp the legal right of a city or county from adopting and enforcing local ordinances, rules, regulations, or standards for the storage, collection, transportation, processing, or disposal of solid wastes equal to or more stringent than the rules or regulations adopted by the department pursuant to sections 260.200 to 260.245. Any county or city which adopts orders or ordinances for the management of solid waste shall ensure that such orders or ordinances provide for safe and adequate management of solid waste pursuant to an approved plan under section 260.220 and are not substantially inconsistent with the requirements of sections 260.200 and 260.245 and the rules and regulations promulgated pursuant thereto.

3. (1) Cities or counties may contract as provided in chapter 70, RSMo, with any person, city, county, common sewer district, political subdivision, state agency or authority in this or other states to carry out their responsibilities for the storage, collection, transportation, processing, or disposal of solid wastes.

(2) The board of trustees of any common sewer district incorporated pursuant to sections 204.250 to 204.470, RSMo, may petition the circuit court of the judicial circuit in which is located the county containing the largest portion of the land area in the district to amend the decree of incorporation to permit the common sewer district to engage in the construction, operation and maintenance of a solid waste disposal facility to serve properties within the common sewer district. The petition shall be filed by the board of trustees and all proceedings shall be conducted in the same manner as in an action for the initial formation of a common sewer district pursuant to sections 204.250 to 204.470, RSMo, except that no vote of the residents of the district shall be required. The

construction, operation and maintenance of a solid waste disposal facility by a common sewer district shall comply with the provisions of sections 204.250 to 204.470, RSMo, in the same manner as they shall comply to like functions relating to sewer facilities, and comply with the provisions of this chapter relating to solid waste disposal.

4. (1) Nothing contained in this section and section 260.220 shall apply to any unincorporated area in all second, third and fourth class counties or any county of the first class with a population of less than one hundred thousand in accordance with the most recent decennial census or to any incorporated city having a population of five hundred or less located in such counties; except that any exempted city, village or county may, after public hearing held on not less than twenty days' public notice by publishing a copy of the notice in some newspaper qualified to publish legal notices under chapter 493, RSMo, and having a general circulation within the city, village or county once each week for three consecutive weeks, elect through its governing body to purchase equipment, acquire land, build buildings, incinerators, transfer stations or other structures, lease or otherwise acquire the right to use land or equipment, levy and collect charges for services, levy an annual tax, and do all other things necessary to provide for a proper and effective solid waste management system, as provided in subsection 1 of this section, and may adopt ordinances, rules, regulations or standards as provided in subsection 2 of this section, and may contract as provided in subsection 3 of this section.

(2) No city or county shall be required itself to operate or contract for the operation of solid waste collection, transportation or disposal services, or to collect service charges therefor, except to the extent that the department finds after public notice and public hearing, that privately owned and operated services are not reasonably available on a voluntary basis by contract or otherwise, or that the use of or failure to use such privately owned services has substantially endangered the public health or has resulted in a substantial public nuisance. Upon such a finding by the department, such city or county shall itself operate or contract for the operation of such solid waste collection, transportation and disposal services as may be reasonably necessary to remedy such danger to the public health or to abate such public nuisance, until such city or county, by its solid waste management plan, demonstrates that the storage, collection, transportation, processing and disposal of solid wastes will by other means be carried out in a manner which protects the public health, prevents the creation of public nuisances, and prevents the pollution of the land, air and water of the state. Any person aggrieved by the finding of the department, including any city or county or any privately owned or operated service, may appeal as provided in chapter 536, RSMo.

5. Any city or county which establishes a service charge for solid waste collection services shall state the service charge separately from any other charge of any kind. No city or county shall withhold, or authorize the withholding of, any other utility service for failure to collect the separately stated service charge.

6. Any city or county may contract with any municipal utility, investor owned utility, REA co-op, public water supply district, county sewer district, or any other type of utility to collect monthly service fees for the collection of solid waste.

(L. 1972 S.B. 387 § 4, A.L. 1975 S.B. 98, A.L. 1986 S.B. 475, A.L. 1987 H.B. 384 Revision, A.L. 1988 H.B. 1207, A.L. 1992 H.B. 1732)

Effective 6-19-92

(1976) This section allows imposition of a "charge" in addition to a tax and a two dollar and forty-five cent charge made to persons not using the service is not a tax and does not require a vote. *Craig v. City of Macon (Mo.)*, 543 S.W.2d 772.

(2000) Section allows counties to regulate the location of solid waste facilities. *L.C. Development Company, Inc. v. Lincoln County*, 26 S.W.3d 336 (Mo.App.E.D.).

Solid waste disposal in receptacle of another, prohibited--penalty.

260.216. No person shall place in excess of one half of a cubic foot of solid waste, as defined in section 260.200, RSMo, in any receptacle owned or used by any other person for the storage of solid waste prior to pickup and disposal in a solid waste disposal area or sanitary landfill without the permission of the owner or user of such receptacle or unless the receptacle is for public use. Any person who violates this section shall be guilty of an infraction.

(L. 1992 H.B. 1732 § 1)

*Transferred 1993; formerly 578.155

Vehicles transporting solid wastes, weight limits.

260.218. Notwithstanding any other provision of law to the contrary, any truck, tractor-trailer or other combination engaged in transporting solid waste, as defined by section 260.200, between any city and a solid waste disposal area or solid waste processing facility approved by the department of natural resources or department of health and senior services, may operate with a weight not to exceed twenty-two thousand four hundred pounds on one axle or a weight not to exceed forty-four thousand eight hundred pounds on any tandem axle; but nothing in this section shall be construed to permit the operation of any motor vehicle on the interstate highway system in excess of the weight limits imposed by federal statute; and no such truck, tractor-trailer or other combination shall exceed the width and length limitations provided in section 304.190, RSMo.

(L. 1976 H.B. 1514 § 2, A.L. 1983 H.B. 539)

Effective 3-30-83

Plans to be submitted, contents of--disapproval, effect of.

260.220. 1. Except as otherwise provided by subsection 4 of section 260.215, on or before January 1, 1976, each county and city shall submit to the department an officially adopted plan for a solid waste management system or systems serving areas within its jurisdiction and shall, from time to time, submit each such revision of said plan as it deems necessary or as the department may require, but this provision shall not prohibit cities and counties to contract as provided in chapter 70, RSMo, for development and submission of a joint plan or to authorize their respective regional planning commission to develop and submit the required plan.

2. Every plan shall:

(1) Delineate areas within the jurisdiction of the political subdivision where solid waste management systems are in existence and areas where the solid waste management systems are planned to be available within a ten-year period;

(2) Reasonably conform to the rules and regulations adopted by the department for implementation of sections 260.200 to 260.245;

(3) Provide for the orderly extension of solid waste management systems in a manner consistent with the needs and plans of the whole area, and in a manner which will minimize pollution of the waters or air of the state, prevent public nuisances or health hazards and shall otherwise provide for the safe and sanitary disposal of solid waste;

(4) Take into consideration existing comprehensive plans, population trend projections, engineering and economics so as to delineate with practicable precision those portions of the area which may reasonably be expected to be served by a solid waste management system;

(5) Take into consideration existing acts and regulations affecting the development, use and protection of air, water or land resources;

(6) Establish a time schedule and proposed method of financing for the development, construction and operation of the planned solid waste management systems together with the estimated cost thereof; and

(7) Include such other reasonable information as the department shall require.

3. The plan shall be reviewed by appropriate official planning agencies within the area covered by the plan for consistency with programs of comprehensive planning for the area, and all such reviews shall be transmitted to the department with the proposed plan.

4. In the event any plan or part thereof is disapproved, the department shall furnish any and all reasons for such disapproval, and any city, county, or regional planning commission whose plan is disapproved shall within sixty days revise and resubmit the plan for approval or may request a hearing in accordance with section 260.235.

5. The department may provide technical assistance to counties, cities, and regional planning commissions in coordinating plans for solid waste management systems required by sections 260.200 to 260.245, including revisions of such plans.

6. The director may institute appropriate action under section 260.230 to compel submission of plans in accordance with sections 260.200 to 260.245 and the rules and regulations adopted pursuant to sections 260.200 to 260.245.

(L. 1972 S.B. 387 § 5, A.L. 1975 S.B. 98)

Duties of department--rules and regulations, promulgation of, procedures--model solid waste management plans, contents --coordination with other state agencies.

260.225. 1. The department shall administer sections 260.200 to 260.345 to maximize the amount of recovered materials and to minimize disposal of solid waste in sanitary landfills. The department shall, through its rules and regulations, policies and programs, encourage to the maximum extent practical, the use of alternatives to disposal. To accomplish these objectives, the department shall:

(1) Administer the state solid waste management program pursuant to the provisions of sections 260.200 to 260.345;

(2) Cooperate with appropriate federal, state, and local units of government of this or any other state, and with appropriate private organizations in carrying out its authority under sections 260.200 to 260.345;

(3) Promulgate and adopt, after public hearing, such rules and regulations relating to solid waste management systems as shall be necessary to carry out the purposes and provisions of sections 260.200 to 260.345;

(4) Develop a statewide solid waste management plan in cooperation with local governments, regional planning commissions, districts, and appropriate state agencies;

(5) Provide technical assistance to cities, counties, districts, and authorities;

(6) Develop and conduct a mandatory solid waste technician training course of study;

(7) Conduct and contract for research and investigations in the overall area of solid waste storage, collection, recycling, recovery, processing, transportation and disposal, including, but not limited to, new and novel procedures;

(8) Subject to appropriation by the general assembly, establish criteria for awarding state-funded solid waste management planning grants to cities, counties, and districts, allocate funds, and monitor the proper expenditure of funds;

(9) Issue such permits and orders and conduct such inspections as may be necessary to implement the provisions of sections 260.200 to 260.345 and the rules and regulations adopted pursuant to sections 260.200 to 260.345;

(10) Initiate, conduct and support research, demonstration projects, and investigations with applicable federal programs pertaining to solid waste management systems;

(11) Contract with cities, counties, districts and other persons to act as its agent in carrying out the provisions of sections 260.200 to 260.345 under procedures and conditions as the department shall prescribe.

2. The department shall prepare model solid waste management plans suitable for rural and urban areas which may be used by districts, counties and cities. In preparing the model plans, the department shall consider the findings and recommendations of the study of resource recovery conducted pursuant to section 260.038, and other relevant information. The plans shall conform with the requirements of section 260.220 and section 260.325 and shall:

(1) Emphasize waste reduction and recycling;

(2) Provide for economical waste management through regional cooperation;

(3) Be designed to achieve a reduction of forty percent in solid waste disposed, by weight, by January 1, 1998;

(4) Establish a means to measure the amount of reduction in solid waste disposal;

(5) Provide for the elimination of small quantities of hazardous waste, including household hazardous waste, from the solid waste stream; and

(6) Be designed to guide planning in districts, cities and counties including cities and counties not within a district.

3. The model plan shall be distributed to the executive board of each solid waste district and to counties and cities not within a district by December 1, 1991.

4. No rule or portion of a rule promulgated under the authority of sections 260.200 to 260.345 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

5. In coordination with other appropriate state agencies, including, but not limited to, the division of commerce and industrial development, the office of administration, the environmental improvement and energy resource authority, and the public service commission, the department shall perform the following duties in order to promote resource recovery in the state in ways which are economically feasible:

- (1) Identify markets for recovered materials and for energy which could be produced from solid waste and household hazardous waste;
- (2) Provide technical assistance pertaining to all aspects of resource recovery to cities, counties, districts, industries and other persons;
- (3) Identify opportunities for resource recovery programs in state government and initiate actions to implement such programs;
- (4) Expand state contracts for procurement of items made from recovered materials;
- (5) Initiate recycling programs within state government;
- (6) Provide a clearinghouse of consumer information regarding the need to support resource recovery, utilize and develop new resource recovery programs around existing enterprises, request and purchase recycled products, participate in resource conservation activities and other relevant issues;
- (7) Identify barriers to resource recovery and resource conservation, and propose remedies to these barriers; and
- (8) Initiate activities with appropriate state and local entities to develop markets for recovered materials.

(L. 1972 S.B. 387 § 6, A.L. 1975 S.B. 98, A.L. 1986 S.B. 475, A.L. 1988 S.B. 535, A.L. 1990 S.B. 530, A.L. 1993 S.B. 52, A.L. 1995 S.B. 3)

(1997) Section declared unconstitutional pursuant to article II, section 1 and article III, sections 21 and 31 of the Missouri Constitution. Missouri Coalition for the Environment v. Joint Committee on Administrative Rules, 948 S.W.2d 125 (Mo.banc).

Closure of facility, plan to be submitted, contents--notice, when --financial assurance instrument, release of, when--exceptions.

260.226. 1. Each operator of a solid waste disposal area shall insure that the area is properly closed upon cessation of operations. Each operator shall submit a closure plan with the application for a permit. Operators of currently permitted sanitary landfills shall submit a closure plan within one year from August 13, 1986. The plan, as approved by the department, shall include at least the following:

- (1) A description of how and when the area will be closed and, if applicable, a description of plans for closing portions of the area during the operational life of the area;
- (2) A written estimate, in current dollars, of the cost of closure of the total area and, if applicable, an estimate of the cost of closing portions of the area during the

operational life of the area in accordance with sections 260.200 to 260.245. The estimate shall equal the cost of closure at the time in the area's life when the extent and manner of its operation would make closure the most expensive unless the closure plan demonstrates that the most expensive closure can be avoided in which case the estimate shall equal the cost of closure based upon the closure plan.

2. The operator shall amend the closure plan whenever changes in operating plans, area design or closure costs affect the closure plan. When the operator requests a permit modification to authorize a change in operating plans or area design, he shall request a modification of the closure plan at the same time.

3. The operator shall notify the department at least one hundred eighty days prior to the date he expects to begin closure. Closure shall begin within thirty days after the date on which the operator receives the final volume of waste.

4. The permittee shall provide a financial assurance instrument in such amount and form as prescribed by the department to insure that, upon abandonment, cessation or interruption of the operation of the area, an approved closure plan is completed. Operators of currently permitted disposal areas shall provide a suitable financial assurance instrument prior to January 1, 1988. Any interest which accrues to any financial assurance instrument established pursuant to this section shall remain with that instrument and shall be applied against the operator's obligation under this section until the instrument is released by the department as provided in subsection 5 of this section.

5. The department shall inspect a solid waste disposal area, or some portion thereof as specified in the closure plan, when notified by the operator that the area has been closed. If the inspection reveals that the approved closure plan has been properly effected, the director shall authorize the release, or proportional release, of the financial instrument required under this section.

6. Operators of a solid waste disposal area as part of a permit issued under sections 444.500 to 444.905, RSMo, shall not be required to submit closure and post-closure plans or provide the financial assurance instruments required under this act*.

(L. 1986 S.B. 475)

*"This act" (S.B. 475, 1986) contained numerous sections. Consult Disposition of Sections table for a definitive listing.

Postclosure plan, contents--financial assurance instrument required--owner or operator of sanitary or demolition landfill to take corrective action, when--plan required--financial assurance, amount, form required, released when.

260.227. 1. The operator of a sanitary landfill shall be responsible for postclosure monitoring and care to ensure that the area does not present a threat to the public health or the environment. The department may require the operator of other solid waste disposal areas to be responsible for postclosure monitoring and care. The operator shall provide proper care for the area for thirty years after closure; provided, however, that the department may shorten or extend the postclosure period. The operator must demonstrate that the site does not and in all likelihood will not present a threat to public health or the environment to reduce the postclosure period. The department may extend the postclosure period if it finds that site conditions warrant an extension

unless the operator demonstrates that the area does not and in all likelihood will not present a threat to public health or the environment.

2. Each operator required to submit a postclosure plan shall submit the plan with the permit application. Operators of currently permitted sanitary landfills shall submit a postclosure plan within one year of August 13, 1986. The postclosure plan as amended and as approved by the department shall contain at least the following:

- (1) Plans for monitoring the area after closure;
- (2) The planned maintenance schedule; and
- (3) An estimate of the cost of postclosure monitoring and care for the entire postclosure period.

3. The operator shall amend this plan whenever changes in operating plans or events occur, during the active life of the area or the postclosure period, which affect the postclosure plan.

4. When a permit modification is requested during the active life of the area to authorize a change in operating plans or area design, the postclosure plan shall be subject to review.

5. As a condition of granting a permit to operate any sanitary landfill, the department shall require the permittee to provide a financial assurance instrument in such amount and form as prescribed by the department to ensure the implementation of the postclosure plan. The department may require operators of other solid waste disposal areas to submit a financial assurance instrument to ensure the implementation of the postclosure plan. Operators of a permitted sanitary landfill and operators of other solid waste disposal areas designated by the department which accept solid waste after January 1, 1987, shall provide financial assurance for that area before January 1, 1988. Any interest which accrues to any financial assurance instrument established pursuant to this section shall remain with that instrument and shall be applied against the operator's obligation under this section until the instrument is released by the department as provided in subsection 7 of this section.

6. Prior to the issuance of a permit, operators electing to use a secured trust, or a similar financial assurance instrument, shall deposit an amount which is at least equal to the estimated cost of monitoring and care for the entire permitted area for one year. The operator shall annually deposit an amount equal to at least twice the estimated annual postclosure monitoring and care cost until moneys in the fund equal the estimated monitoring and care cost for the postclosure period. The operator shall make additional contributions when subsequent changes in the operating plan, area design or postclosure care requirements increase the cost of postclosure monitoring and care.

7. The department shall periodically inspect solid waste disposal areas during the postclosure period to ensure that the operator is properly monitoring and caring for the area. The department shall review the area upon the termination of the postclosure period.

8. The owner or operator of a sanitary or demolition landfill shall take corrective action to mitigate threats to the public health or the environment.

9. Once an identified release of contaminants has been determined to have occurred, the owner or operator of a sanitary or demolition landfill shall provide a correction action plan for remediation of groundwater contamination, surface water contamination, or gas migration. The department may extend the corrective action period or require alternative measures if it finds that the remediation measures do not effectively mitigate the threat.

10. Each owner or operator required to submit a corrective action plan as a result of an identified release of contaminants shall submit, within fourteen days of selecting the proposed remediation measures, the plan and a schedule for implementing the measures for approval by the department. Such approval or disapproval must be granted within fourteen days of receipt by the department.

11. Within one hundred twenty days of selection of the remediation measures, the owner or operator of a sanitary or demolition landfill shall provide a financial assurance instrument in such amount and form as prescribed by the department to ensure the implementation of the corrective action plan. Any interest which accrues to any financial assurance instrument established pursuant to this section shall remain with that instrument and shall be applied against the operator's obligation under this section until the instrument is released by the department.

12. The department shall periodically inspect the sanitary or demolition landfill during the corrective action period to ensure that the operator is properly implementing the corrective action remediation plan. The department shall review the area upon completion of the corrective action measures. When the department determines that the corrective action has been completed, the corrective action financial assurance instrument shall be released.

(L. 1986 S.B. 475, A.L. 1992 H.B. 1732, A.L. 1995 S.B. 60 & 112)

Failure to implement closure, postclosure plan or corrective action plan, forfeiture of collateral, when.

260.228. 1. If the operator of a solid waste disposal area fails to properly implement the closure or postclosure plan or the corrective action plan required for a sanitary or demolition landfill, the director shall order the operator to implement such plan. Such an order shall be issued prior to closure if the department determines that the area has not operated for a period of ninety days and implementation of the closure plan is necessary to prevent a public nuisance or to protect the public health.

2. The department shall give written notice to the operator of any violation of sections 260.226 and 260.227, or noncompliance with any of the rules and regulations promulgated by the department under sections 260.226 and 260.227. If corrective measures approved by the department are not commenced within a specified and reasonable time, the department shall order forfeiture of all or that part of the operator's collateral necessary to implement the closure and postclosure and corrective action plans. Any operator aggrieved by a forfeiture order may appeal as provided in section 260.235. Forfeited collateral shall be placed into the general revenue fund to be appropriated to and expended by the department to implement the closure and postclosure plans. If the operator's financial assurance instrument is insufficient for implementation of the closure and postclosure and corrective action plans, the department shall institute a civil action in a court of competent jurisdiction to recover from the operator all additional costs incurred.

(L. 1986 S.B. 475, A.L. 1995 S.B. 60 & 112)

Department may order repairs, alterations, construction or reconstruction, when--injunctive relief, when.

260.230. 1. If the department finds that the storage, collection, transportation, processing or disposal of solid wastes subject to the provisions of sections 260.200 to 260.245 is in violation of any rule or regulation adopted by the department pursuant to sections 260.200 to 260.245 or might reasonably be expected to cause pollution of the land, air, or waters of the state or is creating a public nuisance or health hazard, the department may order the person to alter its storage, collection, transportation, processing or disposal systems to correct such violation causing the health hazard, pollution, or public nuisance. Such order shall specify the length of time, after issuance of the order, within which the facility or area shall be repaired, altered, constructed or reconstructed. In addition, the director may revoke, or suspend, the permit for a solid waste disposal area or solid waste processing facility.

2. Whenever it appears to the department that any person has engaged in, or is about to engage in, any acts or practices that have or will constitute violation of this law, or any rule or regulation promulgated thereunder, the director may request, and it shall be the duty of the county prosecuting attorney, or the attorney general, to bring an action in the circuit court to enjoin the acts or practices and to enforce compliance with this law or any rule or regulation promulgated thereunder. In any such action, the court may grant to the department such prohibitory or mandatory injunctive relief as the facts may warrant.

(L. 1972 S.B. 387 § 7, A.L. 1975 S.B. 98, A.L. 1986 S.B. 475, A.L. 1991 S.B. 45)

Hearing, when, procedure--review, how--injunction based on seriousness of threat to environment--performance bond required, forfeited, when.

260.235. 1. Any person aggrieved by a forfeiture of any financial assurance instrument, civil or administrative penalty or denial, suspension or revocation of a permit required by section 260.205 or a modification to a permit issued under section 260.205 or any disapproval of the plan required by section 260.220, may within thirty days of notice of such action request a hearing. The notice of the department shall be effected by certified mail and shall set forth the reasons for such forfeiture, disapproval, denial, suspension, civil penalty or revocation. The department may seek an injunction in the circuit court in which the facility is located requiring the facility for which the transfer of ownership has been denied, or the permit or modification of the permit has been denied, suspended or revoked, to cease operations from the date ordered by the court until such time as the appeal is resolved or obtain a performance bond in the amount and manner as prescribed by rule. The department's action seeking an injunction shall be based on the seriousness of the threat to the environment which continued operation of the facility poses. The bond shall remain in place until the appeal is resolved. If the department's decision is upheld, the bond shall be forfeited and placed in a separate subaccount of the solid waste management fund.

2. The hearing shall be conducted by the director or his designated representative in accordance with the procedures set forth in sections 536.070, 536.073, 536.077, 536.080, and 536.090, RSMo. The decision of the department shall become final thirty days after delivery or certified mailing of a copy of it to the person. Such decisions may be appealed to the administrative hearing commission pursuant to sections 536.063 to 536.095, RSMo, and shall be subject to judicial review of a final decision as provided in sections 536.100 to 536.140, RSMo.

(L. 1972 S.B. 387 § 8, A.L. 1975 S.B. 98, A.L. 1986 S.B. 475, A.L. 1995 S.B. 60 & 112)

Severability of provisions.

260.236. The provisions of this act* shall be severable and if any phrase, clause, sentence or provision of this act* is declared by a court of competent jurisdiction to be contrary to the constitution, the validity of the remainder of this act* and the applicability thereof shall not be affected thereby. All applications for permits or expansions of any solid waste disposal area in progress prior to January 1, 1986, shall be processed by the department under the statutes, rules and regulations in effect as of January 1, 1986. Such applicant shall comply with the provisions of subsections 7 and 10 of section 260.205, and shall meet the closure and postclosure requirements for currently permitted disposal areas within the time periods specified in sections 260.226 and 260.227.

(L. 1986 S.B. 475)

*"This act" (S.B. 475, 1986) contained numerous sections. Consult Disposition of Sections table for a definitive listing.

Violations, how proceeded against--county regulations, how enforced, penalty for violation--exceptions.

260.240. 1. In the event the director determines that any provision of sections 260.200 to 260.245 or any standard, rule, regulation, final order or approved plan promulgated pursuant thereto is being, was, or is in imminent danger of being violated, the director may, in addition to those remedies provided in section 260.230, cause to have instituted a civil action in any court of competent jurisdiction for injunctive relief to prevent any such violation or further violation or in the case of violations concerning a solid waste disposal area or a solid waste processing facility, for the assessment of a penalty not to exceed one thousand dollars per day for each day, or part thereof, the violation occurred and continues to occur, or both, as the court deems proper. A civil monetary penalty under this section shall not be assessed for a violation where an administrative penalty was assessed under section 260.249. The director may request either the attorney general or a prosecuting attorney to bring any action authorized in this section in the name of the people of the state of Missouri. Suit can be brought in any county where the defendant's principal place of business is located or where the violation occurred. Any offer of settlement to resolve a civil penalty under this section shall be in writing, shall state that an action for imposition of a civil penalty may be initiated by the attorney general or a prosecuting attorney representing the department under authority of this section, and shall identify any dollar amount as an offer of settlement which shall be negotiated in good faith through conference, conciliation and persuasion.

2. Any rule, regulation, standard or order of a county commission, adopted pursuant to the provisions of sections 260.200 to 260.245, may be enforced in a civil action for mandatory or prohibitory injunctive relief or for the assessment of a penalty not to exceed one hundred dollars per day for each day, or part thereof, that a violation of such rule, regulation, standard or order of a county commission occurred and continues to occur, or both, as the commission deems proper.

The county commission may request the prosecuting attorney or other attorney to bring any action authorized in this section in the name of the people of the state of Missouri.

3. The liabilities imposed by this section shall not be imposed due to any violation caused by an act of God, war, strike, riot or other catastrophe.

(L. 1972 S.B. 387 § 9, A.L. 1975 S.B. 98, A.L. 1993 S.B. 80, et al.)

Permit not to be issued, when.

260.241. A permit shall not be issued to any person who is determined by the department to habitually violate or to have habitually violated the requirements of the Missouri environmental statutes,* the environmental statutes of other states, or * federal statutes pertaining to environmental control or has had two or more convictions within Missouri, after August 28, 1990, and within any five-year period, for crimes or criminal acts, an element of which involves restraint of trade, price-fixing, intimidation of the customers of another person or for engaging in any other acts which may have the effect of restraining or limiting competition concerning activities regulated under this chapter or similar laws of other states or the federal government; except that convictions for violations by entities purchased or acquired by an applicant or permittee which occurred prior to the purchase or acquisition shall not be included, or who has offered, in person or through an agent, any inducement, including any discussion of potential employment opportunities, to any employee of the department when such person has an application for a permit pending or a permit under review. A license or permit shall not be issued to any person who has been adjudged in contempt of any court order enforcing the provisions of the Missouri solid or hazardous waste laws. For the purposes of this subsection, the term "person" shall include any officer or management employee of the applicant, or any officer or management employee of any corporation or business which owns an interest in the applicant, or any officer or management employee of any business which is owned either wholly or in part by any person, corporation, or business which owns an interest in the applicant.

(L. 1988 S.B. 535, A.L. 1995 S.B. 60 & 112)

*Word "of" appears here in original rolls.

Fly ash produced by coal combustion, exemption from solid waste permitting requirements, conditions--certain counties.

260.242. All fly ash produced by coal combustion generating facilities shall be exempt from all solid waste permitting requirements of this chapter, if such ash is constructively reused or disposed of by a grout technique in any active or inactive noncoal, non-open-pit mining operation located in a city having a population of at least three hundred fifty thousand located in more than one county and is also located in a county of the first class without a charter form of government with a population of greater than one hundred fifty thousand and less than one hundred sixty thousand, provided said ash is not considered hazardous waste under the Missouri hazardous waste law.

(L. 1993 S.B. 80, et al. § 15)

Buffer zone required, commercial processing facility, how determined.

260.243. The department of natural resources shall not issue a permit to an applicant for a commercial solid waste processing facility designed to incinerate solid waste in any county unless such facility meets the conditions established in this section. For the purposes of this section, a commercial solid waste processing facility is a facility designed to incinerate waste which accepts solid waste for a fee regardless of where such waste is generated. Any commercial solid waste processing facility which incinerates solid waste shall be located so as to provide a health and safety buffer zone to protect citizens living or working nearby. The size of the buffer zone shall be determined by the department but shall extend at least fifty feet from a facility located in a nonresidential area in a city not within a county or at least three hundred feet from a facility located elsewhere. The department shall consider the proximity of schools, businesses and houses, the prevailing winds and other factors which it deems relevant when establishing the buffer zone. Any facility located within a city not within a county shall be required to strictly adhere to the terms, conditions and provisions of its permit.

(L. 1990 S.B. 530, A.L. 1993 S.B. 80, et al.)

Tax, how levied--limitation--form of ballot.

260.245. 1. A city or county or combination of cities and counties may levy an annual tax as provided in sections 260.200 to 260.245 only after such tax has been submitted to a vote of the people to be affected thereby and a majority of the voters in each city or county voting thereon have approved same.

2. The question shall be submitted in substantially the following form:
Shall (the city of, the county of, the city of, and county of) levy an annual tax not to exceed ten cents on the one hundred dollars assessed valuation to pay for a solid waste management system?

(L. 1972 S.B. 387 § 10, A.L. 1978 H.B. 971)

Annexation or expansion of solid waste services by city, notice to certain private entities, when--city to contract with private entity, duration, terms.

260.247. 1. Any city which annexes an area or enters into or expands solid waste collection services into an area where the collection of solid waste is presently being provided by one or more private entities shall notify the private entity or entities of its intent to provide solid waste collection services in the area by certified mail.

2. A city shall not commence solid waste collection in such area for at least two years from the effective date of the annexation or at least two years from the effective date of the notice that the city intends to enter into the business of solid waste collection or to expand existing solid waste collection services into the area, unless the city contracts with the private entity or entities to continue such services for that period.

3. If the services to be provided under a contract with the city pursuant to subsection 2 of this section are substantially the same as the services rendered in the area prior to the decision of the city to annex the area or to enter into or expand its solid waste collection services into the area, the amount paid by the city shall be at least equal to the amount the private entity or entities would have received for providing such services during that period.

4. Any private entity or entities which provide collection service in the area which the city has decided to annex or enter into or expand its solid waste collection services into shall make available upon written request by the city not later than thirty days following such request, all information in its possession or control which pertains to its activity in the area necessary for the city to determine the nature and scope of the potential contract.

5. The provisions of this section shall apply to private entities that service fifty or more residential accounts or fifteen or more commercial accounts in the area in question.

(L. 1988 H.B. 1207 § 1)

Administrative penalties--not to be assessed for minor violation, definition--amount set by rule, payment when--appeal effect--surcharge due when--unpaid penalty, collection--time limitation to assess violation--judicial appeal--civil action effect, exception.

260.249. 1. In addition to any other remedy provided by law, upon a determination by the director that a provision of sections 260.200 to 260.281, or a standard, limitation, order, rule or regulation promulgated pursuant thereto, or a term or condition of any permit has been violated, the director may issue an order assessing an administrative penalty upon the violator under this section. An administrative penalty shall not be imposed until the director has sought to resolve the violations through conference, conciliation and persuasion and shall not be imposed for minor violations of sections 260.200 to 260.281 or minor violation of any standard, limitation, order, rule or regulation promulgated pursuant to sections 260.200 to 260.281 or minor violations of any term or condition of a permit issued pursuant to sections 260.200 to 260.281 or any violations of sections 260.200 to 260.281 by any person resulting from mismanagement of solid waste generated and managed on the property of the place of residence of the person. If the violation is resolved through conference, conciliation and persuasion, no administrative penalty shall be assessed unless the violation has caused, or has the potential to cause, a risk to human health or to the environment, or has caused or has potential to cause pollution, or was knowingly committed, or is defined by the United States Environmental Protection Agency as other than minor. Any order assessing an administrative penalty shall state that an administrative penalty is being assessed under this section and that the person subject to the penalty may appeal as provided by section 260.235. Any such order that fails to state the statute under which the penalty is being sought, the manner of collection or rights of appeal shall result in the state's waiving any right to collection of the penalty.

2. The department shall promulgate rules and regulations for the assessment of administrative penalties. The amount of the administrative penalty assessed per day of violation for each violation under this section shall not exceed the amount of the civil penalty specified in section 260.230. Such rules shall reflect the criteria used for the administrative penalty matrix as provided for in the Resource Conservation and Recovery Act, 42 U.S.C. 6928(a), Section

3008(a), and the harm or potential harm which the violation causes, or may cause, the violator's previous compliance record, and any other factors which the department may reasonably deem relevant. An administrative penalty shall be paid within sixty days from the date of issuance of the order assessing the penalty. Any person subject to an administrative penalty may appeal as provided in section 260.235. Any appeal will stay the due date of such administrative penalty until the appeal is resolved. Any person who fails to pay an administrative penalty by the final due date shall be liable to the state for a surcharge of fifteen percent of the penalty plus ten percent per annum on any amounts owed. Any administrative penalty paid pursuant to this section shall be handled in accordance with section 7 of article IX of the state constitution. An action may be brought in the appropriate circuit court to collect any unpaid administrative penalty, and for attorney's fees and costs incurred directly in the collection thereof.

3. An administrative penalty shall not be increased in those instances where department action, or failure to act, has caused a continuation of the violation that was a basis for the penalty. Any administrative penalty must be assessed within two years following the department's initial discovery of such alleged violation, or from the date the department in the exercise of ordinary diligence should have discovered such alleged violation.

4. The state may elect to assess an administrative penalty, or, in lieu thereof, to request that the attorney general or prosecutor file an appropriate legal action seeking a civil penalty in the appropriate circuit court.

5. Any final order imposing an administrative penalty is subject to judicial review upon the filing of a petition pursuant to section 536.100, RSMo, by any person subject to the administrative penalty.

(L. 1991 S.B. 45, A.L. 1992 H.B. 1732, A.L. 1993 S.B. 80, et al.)

Major appliances, waste oil, yard waste and batteries, disposal restricted--recycling of certain items, addressed in solid waste management plan.

260.250. 1. After January 1, 1991, major appliances, waste oil and lead-acid batteries shall not be disposed of in a solid waste disposal area. After January 1, 1992, yard waste shall not be disposed of in a solid waste disposal area.

2. After January 1, 1991, waste oil shall not be incinerated without energy recovery.

3. Each district, county and city shall address the recycling, reuse and handling of aluminum containers, glass containers, newspapers, whole tires, plastic beverage containers and steel containers in its solid waste management plan consistent with sections 260.250 to 260.345.

(L. 1990 S.B. 530)

Department to provide technical assistance and public education programs on collection of used motor oil--household consumer used motor oil, duty to maintain toll-free telephone for information.

260.253. Funds may be allocated, upon appropriation, to the department to provide technical assistance to local governments and conduct public education programs concerning the proper handling of used motor oil. The department shall establish and maintain a telephone number,

which may be toll free, for the purpose of disseminating information concerning the locations and operation of household consumer-used motor oil collection centers within the state, as well as information concerning the availability, dates and requirements for curbside collection where available. The department shall also develop a durable and legible sign, suitable for use by a retailer of motor oil informing the public of the importance of proper collection, recycling or disposal of used motor oil and the telephone number for used motor oil information.

(L. 1995 S.B. 60 & 112 § 260.253 subsec. 1)

Grants for household consumer-used motor oil collection systems, requirements--centers not to accept motor oil from commercial operation.

260.254. 1. The department may award grants to solid waste management districts, municipalities, counties, and other local government entities or their instrumentalities to plan, establish or promote household consumer-used motor oil collection systems. In order to be eligible for grants, household consumer-used motor oil collection centers may only accept used motor oil originating from household consumers or farmers, and must operate in compliance with department rules. Household consumer-used motor oil collection centers may not accept used motor oil from commercial operations. Household consumer-used motor oil collection centers may limit the quantity of oil received at any one time from an individual and may restrict the size of the container used to deliver the oil to the center.

2. All household consumer-used motor oil collection centers must comply with the recycled used oil management standards as established by the department.

3. Household consumer-used motor oil collection centers shall transfer used motor oil only to transporters licensed pursuant to rules of the department.

4. All used motor oil recycling, reclaiming, and rerefining facilities shall comply with all applicable requirements of the department.

5. The department shall establish rules to carry out the provisions of this section and section 260.253.

(L. 1995 S.B. 60 & 112 § 260.253 subsecs. 2 to 6)

Newspapers, duty to recycle, requirements--statement to be filed with department, penalty.

260.255. 1. After January 1, 1994, each newspaper publisher in this state with an average daily distribution on days published of more than fifteen thousand copies shall file a statement with the department of natural resources certifying the total number of tons of newsprint used during the past calendar year, and the average recycled content of such newsprint. The statement shall declare whether the following target percentages have been met for the past year, and if not met, shall contain a statement explaining why the newspaper publisher failed to meet the target percentages.

2. The target recycled content usage for each newspaper publisher for each year shall be:

- (1) 1993, ten percent;
- (2) 1994, twenty percent;
- (3) 1995, thirty percent;

- (4) 1996, forty percent;
- (5) 2000, and subsequent years, fifty percent.

3. Any newspaper publisher who fails to file a statement with or seek a waiver from the department, or who files a statement containing misleading or deceptive information, shall be a violation of this section, punishable by a civil fine of not more than one hundred dollars per day for each day the violation continues. Penalties imposed under this section shall be deposited into the solid waste management fund and shall be used to further the purposes of sections 260.200 to 260.345.

(L. 1990 S.B. 530)

Batteries, lead-acid, disposal of restricted--penalty.

260.260. 1. Effective January 1, 1991, no person shall knowingly place a used lead-acid battery in a solid waste disposal area, discard or otherwise dispose of a lead-acid battery.

2. Such batteries shall be delivered to a recycling or resource recovery facility permitted by this or another state or to the agent of a battery wholesaler or manufacturer for delivery to a permitted secondary lead smelter.

3. Each lead-acid battery improperly disposed of shall constitute a separate violation. A person who disposes of a lead-acid battery in violation of this section shall, upon conviction, be guilty of a class C misdemeanor.

(L. 1990 S.B. 530, A.L. 1995 H.B. 81)

Retailers of lead-acid batteries, duties--notice to purchaser, contents.

260.262. A person selling lead-acid batteries at retail or offering lead-acid batteries for retail sale in the state shall:

(1) Accept, at the point of transfer, in a quantity at least equal to the number of new lead-acid batteries purchased, used lead-acid batteries from customers, if offered by customers;

(2) Post written notice which must be at least four inches by six inches in size and must contain the universal recycling symbol and the following language:

(a) It is illegal to discard a motor vehicle battery or other lead-acid battery;

(b) Recycle your used batteries; and

(c) State law requires us to accept used motor vehicle batteries, or other lead-acid batteries for recycling, in exchange for new batteries purchased; and

(3) Manage used lead-acid batteries in a manner consistent with the requirements of the state hazardous waste law.

(L. 1990 S.B. 530, A.L. 1995 H.B. 81)

Notices to public, batteries, duties of department.

260.264. The department of natural resources shall produce, print and distribute the notices required by section 260.262 to all places where lead-acid batteries are offered for sale at retail. In performing its duties under this section, the department may inspect any place, building or

premises governed by sections 260.260 to 260.266. The department may enter into an interagency agreement with the superintendent of the highway patrol to authorize the superintendent to conduct inspections at motor vehicle safety inspection stations in conjunction with inspections undertaken pursuant to sections 307.350 to 307.400, RSMo. Authorized employees of the agency or of the superintendent may issue warnings and citations to persons who fail to comply with the requirements of those sections. Failure to post the required notice following warning shall be an infraction.

(L. 1990 S.B. 530)

Wholesalers of lead-acid batteries, duties--storage of batteries, requirements.

260.266. 1. Any person selling new lead-acid batteries at wholesale shall accept, at the point of transfer, in a quantity at least equal to the number of new lead-acid batteries purchased, used lead-acid batteries from customers, if offered by customers. A person accepting lead-acid batteries in transfer from an automotive battery retailer shall be allowed a period not to exceed ninety days to remove lead-acid batteries from the retail point of collection.

2. Lead-acid battery retailers and wholesalers shall not hold used lead-acid batteries for more than ninety days without the approval of the department and shall store used lead-acid batteries in a manner which will protect human health and the environment pursuant to regulations adopted by the department of natural resources under this chapter.

(L. 1990 S.B. 530, A.L. 1995 H.B. 81)

Restriction on sales of certain batteries, effective dates--sale of nonbutton cell mercuric-oxide battery requirements, duties of manufacturer, violation, penalty.

260.267. 1. No person shall sell, offer for sale, or offer for promotional purposes any alkaline-manganese battery manufactured on or after January 1, 1997, with any mercury content that was intentionally introduced, as distinguished from mercury that may be incidentally present in other materials, except that the limitation on mercury content in alkaline-manganese button cell batteries shall be twenty-five milligrams of mercury per button cell.

2. (1) No person shall sell, offer for sale, or offer for promotional purposes for use in Missouri any button cell mercuric-oxide battery on or after January 1, 1996.

(2) No person shall sell, offer for sale, or offer for promotional purposes for use in Missouri any nonbutton cell mercuric-oxide battery on or after January 1, 1996, unless the battery manufacturer does all of the following:

(a) Identifies an approved collection site to which persons may send used mercuric-oxide batteries for recycling or proper disposal;

(b) Informs each mercuric-oxide battery purchaser of the location of the collection site identified in paragraph (a) of this subdivision; and

(c) Informs each mercuric-oxide battery purchaser of a telephone number that the purchaser may call to receive information about returning used mercuric-oxide batteries for recycling or proper disposal.

3. A person in violation of this section shall, upon conviction, be guilty of a class C misdemeanor.

(L. 1995 H.B. 81)

Waste tires, prohibited activities--penalties--site owners, no new waste tire sites permitted, when, exception--registration required, duty to inform department, contents--rules and regulations--permit fees--duties of department--inventory of processed waste tires not to exceed limitation--auto dismantler, limited storage of tires allowed--recovered rubber, use by transportation department, how.

260.270. 1. (1) It shall be unlawful for any person to haul for commercial profit, collect, process, or dispose of waste tires in the state except as provided in this section. This section shall not be construed to prohibit waste tires from being hauled to a lawfully operated facility in another state. Waste tires shall be collected at a waste tire site, waste tire processing facility, waste tire end-user facility, or a waste tire collection center. A violation of this subdivision shall be a class C misdemeanor for the first violation. A second and each subsequent violation shall be a class A misdemeanor. A third and each subsequent violation, in addition to other penalties authorized by law, may be punishable by a fine not to exceed five thousand dollars and restitution may be ordered by the court.

(2) A person shall not maintain a waste tire site unless the site is permitted by the department of natural resources for the proper and temporary storage of waste tires or the site is an integral part of the person's permitted waste tire processing facility or registered waste tire end-user facility. No new waste tire sites shall be permitted by the department after August 28, 1997, unless they are located at permitted waste tire processing facilities or registered waste tire end-user facilities. A person who maintained a waste tire site on or before August 28, 1997, shall not accept any quantity of additional waste tires at such site after August 28, 1997, unless the site is an integral part of the person's waste tire processing or end-user facility, or unless the person who maintains such site can verify that a quantity of waste tires at least equal to the number of additional waste tires received was shipped to a waste tire processing or end-user facility within thirty days after receipt of such additional waste tires.

(3) A person shall not operate a waste tire processing facility unless the facility is permitted by the department. A person shall not maintain a waste tire end-user facility unless the facility is registered by the department. The inventory of unprocessed waste tires on the premises of a waste tire processing or end-user facility shall not exceed the estimated inventory that can be processed or used in six months of normal and continuous operation. This estimate shall be based on the volume of tires processed or used by the facility in the last year or the manufacturer's estimated capacity of the processing or end-user equipment. This estimate may be increased from time to time when new equipment is obtained by the owner of the facility, and shall be reduced if equipment used previously is removed from active use. The inventory of processed waste tires on the

premises of a waste tire processing or end-user facility shall not exceed two times the permitted inventory of an equivalent volume of unprocessed waste tires.

(4) Any person selling new, used, or remanufactured tires at retail shall accept, at the point of transfer, in a quantity equal to the number of tires sold, waste tires from customers, if offered by such customers. Any person accepting waste tires may charge a reasonable fee reflecting the cost of proper management of any waste tires accepted; except that the fee shall not exceed two dollars per waste tire for any tire designed for a wheel of a diameter of sixteen inches or less and which tire is required to be accepted on a one-for-one basis at the time of a retail sale pursuant to this subdivision. All tire retailers or other businesses that generate waste tires shall use a waste tire hauler permitted by the department, except that businesses that generate or accept waste tires in the normal course of business may haul such waste tires without a permit, if such hauling is performed without any consideration and such business maintains records on the waste tires hauled as required by sections 260.270 to 260.276. Retailers shall not be liable for illegal disposal of waste tires after such waste tires are delivered to a waste tire hauler, waste tire collection center, waste tire site, waste tire processing facility or waste tire end-user facility if such entity is permitted by the department of natural resources.

(5) It shall be unlawful for any person to transport waste tires for consideration within the state without a permit.

(6) Waste tires may not be deposited in a landfill unless the tires have been cut, chipped or shredded.

2. Within six months after August 28, 1990, owners and operators of any waste tire site shall provide the department of natural resources with information concerning the site's location, size, and approximate number of waste tires that have been accumulated at the site and shall initiate steps to comply with sections 260.270 to 260.276.

3. The department of natural resources shall promulgate rules and regulations pertaining to collection, storage and processing and transportation of waste tires and such rules and regulations shall include:

(1) Methods of collection, storage and processing of waste tires. Such methods shall consider the general location of waste tires being stored with regard to property boundaries and buildings, pest control, accessibility by fire-fighting equipment, and other considerations as they relate to public health and safety;

(2) Procedures for permit application and permit fees for waste tire sites and commercial waste tire haulers, and by January 1, 1996, procedures for permitting of waste tire processing facilities and registration of waste tire end-user facilities. The only purpose of such registration shall be to provide information for the documentation of waste tire handling as described in subdivision (5) of this subsection, and registration shall not impose any additional requirements on the owner of a waste tire end-user facility;

(3) Requirements for performance bonds or other forms of financial assurance for waste tire sites;

(4) Exemptions from the requirements of sections 260.270 to 260.276; and

(5) By January 1, 1996, requirements for record-keeping procedures for retailers and other businesses that generate waste tires, waste tire haulers, waste tire collection centers, waste tire sites, waste tire processing facilities, and waste tire end-user facilities.

Required record keeping shall include the source and number or weight of tires received and the destination and number of tires or weight of tires or tire pieces shipped or otherwise disposed of and such records shall be maintained for at least three years following the end of the calendar year of such activity. Detailed record keeping shall not be required where any charitable, fraternal, or other nonprofit organization conducts a program which results in the voluntary cleanup of land or water resources or the turning in of waste tires.

4. Permit fees for waste tire sites and commercial waste tire haulers shall be established by rule and shall not exceed the cost of administering sections 260.270 to 260.275. Permit fees shall be deposited into an appropriate subaccount of the solid waste management fund.

5. The department shall:

(1) Encourage the voluntary establishment of waste tire collection centers at retail tire selling businesses and waste tire processing facilities; and

(2) Investigate, locate and document existing sites where tires have been or currently are being accumulated, and initiate efforts to bring these sites into compliance with rules and regulations promulgated pursuant to the provisions of sections 260.270 to 260.276.

6. Any person licensed as an auto dismantler and salvage dealer under chapter 301, RSMo, may without further license, permit or payment of fee, store but shall not bury on his property, up to five hundred waste tires that have been chipped, cut or shredded, if such tires are only from vehicles acquired by him, and such tires are stored in accordance with the rules and regulations adopted by the department pursuant to this section. Any tire retailer or wholesaler may hold more than five hundred waste tires for a period not to exceed thirty days without being permitted as a waste tire site, if such tires are stored in a manner which protects human health and the environment pursuant to regulations adopted by the department.

7. Notwithstanding any other provisions of sections 260.270 to 260.276, a person who leases or owns real property may use waste tires for soil erosion abatement and drainage purposes in accordance with procedures approved by the department, or to secure covers over silage, hay, straw or agricultural products.

8. The department of transportation shall, beginning July 1, 1991, undertake, as part of its currently scheduled highway improvement projects, demonstration projects using recovered rubber from waste tires as surfacing material, structural material, subbase material and fill, consistent with standard engineering practices. The department shall evaluate the efficacy of using recovered rubber in highway improvements, and shall encourage the modification of road construction specifications, when possible, for the use of recovered rubber in highway improvement projects.

9. The director may request a prosecuting attorney to institute a prosecution for any violation of this section. In addition, the prosecutor of any county or circuit attorney of any city not within a county may, by information or indictment, institute a prosecution for any violation of this section.

(L. 1990 S.B. 530, A.L. 1995 S.B. 60 & 112, A.L. 2002 S.B. 1011)

Waste tires and rubber chips may be used as landfill cover, department of natural resources to promulgate rules.

260.272. Processed waste tires and recycled rubber chips may be used in the design and operation of sanitary landfills, including use of such tires and rubber chips as daily cover. The department of natural resources may promulgate rules to implement this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

(L. 1999 H.B. 603, et al. § 1)

Fee, sale of new tires, amount--collection, use of moneys --termination.

260.273. 1. Any person purchasing a new tire may present to the seller the used tire or remains of such used tire for which the new tire purchased is to replace.

2. A fee for each new tire sold at retail shall be imposed on any person engaging in the business of making retail sales of new tires within this state. The fee shall be charged by the retailer to the person who purchases a tire for use and not for resale. Such fee shall be imposed at the rate of fifty cents for each new tire sold. Such fee shall be added to the total cost to the purchaser at retail after all applicable sales taxes on the tires have been computed. The fee imposed, less six percent of fees collected, which shall be retained by the tire retailer as collection costs, shall be paid to the department of revenue in the form and manner required by the department of revenue and shall include the total number of new tires sold during the preceding month. The department of revenue shall promulgate rules and regulations necessary to administer the fee collection and enforcement. The terms "sold at retail" and "retail sales" do not include the sale of new tires to a person solely for the purpose of resale, if the subsequent retail sale in this state is to the ultimate consumer and is subject to the fee.

3. The department of revenue shall administer, collect and enforce the fee authorized pursuant to this section pursuant to the same procedures used in the administration, collection and enforcement of the general state sales and use tax imposed pursuant to chapter 144, RSMo, except as provided in this section. The proceeds of the new tire fee, less four percent of the proceeds, which shall be retained by the department of revenue as collection costs, shall be transferred by the department of revenue into an appropriate subaccount of the solid waste management fund, created pursuant to section 260.330.

4. Up to five percent of the revenue available may be allocated, upon appropriation, to the department of natural resources to be used cooperatively with the department of elementary and secondary education for the purposes of developing educational programs and curriculum pursuant to section 260.342.

5. Up to twenty-five percent of the moneys received pursuant to this section may, upon appropriation, be used to administer the programs imposed by this section. Up to five percent of the moneys received under this section may, upon appropriation, be used for the grants authorized in subdivision (2) of subsection 6 of this section and authorized in section 260.274.

All remaining moneys shall be allocated, upon appropriation, for the projects authorized in section 260.276.

6. The department shall promulgate, by rule, a statewide plan for the use of moneys received pursuant to this section to accomplish the following:

- (1) Removal of waste tires from illegal tire dumps;
- (2) Providing grants to persons that will use products derived from waste tires, or used waste tires as a fuel or fuel supplement; and
- (3) Resource recovery activities conducted by the department pursuant to section 260.276.

*7. The fee imposed in subsection 2 of this section shall terminate January 1, 2004.

(L. 1990 S.B. 530, A.L. 1995 S.B. 60 & 112, A.L. 1999 H.B. 603, et al. merged with S.B. 426)

*The imposed fee terminates 1-1-04.

Grants, use of waste tires as fuel, who may apply--limitations--advisory council, duties.

260.274. 1. The department and the environmental improvement and energy resources authority shall administer a program to provide incentive grants for capital expenditures to convert existing facilities for the purpose of using waste tires as a fuel or fuel supplement or products from waste tires. Any person, other than a state agency, who meets eligibility requirements established by the department by rule may apply for such grants. No grant may be awarded for an activity which receives less than forty percent of its tires from Missouri waste tire sites, retailers or residents. The burden of proof shall be on the applicant to show that eligibility requirements have been met.

2. For the purpose of establishing eligibility requirements and application priorities, the director shall create an advisory council consisting of members of the tire industry, the general public, the department, and the department of economic development.

(L. 1990 S.B. 530, A.L. 1995 S.B. 60 & 112)

Waste tire site, closure plan, contents--financial assurance instrument, purpose, how calculated.

260.275. 1. Each operator of a waste tire site shall ensure that the area is properly closed upon cessation of operations. The department of natural resources may require that a closure plan be submitted with the application for a permit. The closure plan, as approved by the department, shall include at least the following:

- (1) A description of how and when the area will be closed;
- (2) The method of final disposition of any waste tires remaining on the site at the time notice of closure is given to the department.

2. The operator shall notify the department at least ninety days prior to the date he expects closure to begin. No waste tires may be received by the waste tire site after the date closure is to begin.

3. The permittee shall provide a financial assurance instrument in such an amount and form as prescribed by the department to ensure that, upon abandonment, cessation or interruption of the operation of the site, an approved closure plan is completed. The amount of the financial assurance instrument shall be based upon the current costs of similar cleanups using data from actual waste tire cleanup project bids received by the department to remediate waste tire sites of similar size. If waste tires are accumulated at a solid waste management area, the existing financial assurance instrument filed for the solid waste disposal area may be applied to the requirements of this section. Any interest that accrues to any financial assurance instrument established pursuant to this section shall remain with that instrument and shall be applied against the operator's obligation under this section until the instrument is released by the department. The director shall authorize the release of the financial assurance instrument after the department has been notified by the operator that the site has been closed, and after inspection, the department approves closure of the waste tire site.

4. If the operator of a waste tire site fails to properly implement the closure plan, the director shall order the operator to implement such plan, and take other steps necessary to assure the proper closure of the site pursuant to section 260.228 and this section.

(L. 1990 S.B. 530, A.L. 1995 S.B. 60 & 112)

Nuisance abatement activities, department may conduct--costs, civil action authorized, exception--resource recovery or nuisance abatement bids on contract, who may bid--content.

260.276. 1. The department of natural resources shall, subject to appropriation, conduct resource recovery or nuisance abatement activities designed to reduce the volume of waste tires or alleviate any nuisance condition at any site if the owner or operator of such a site fails to comply with the rules and regulations authorized under section 260.270, or if the site is in continued violation of such rules and regulations. The department shall give first priority to cleanup of sites owned by persons who present satisfactory evidence that such persons were not responsible for the creation of the nuisance conditions or any violations of section 260.270 at the site.

2. The department may ask the attorney general to initiate a civil action to recover from any persons responsible the reasonable and necessary costs incurred by the department for its nuisance abatement activities and its legal expenses related to the abatement; except that in no case shall the attorney general seek to recover cleanup costs from the owner of the property if such person presents satisfactory evidence that such person was not responsible for the creation of the nuisance condition or any violation of section 260.270 at the site.

3. The department shall allow any person, firm, corporation, state agency, charitable, fraternal, or other nonprofit organization to bid on a contract for each resource recovery or nuisance abatement activity authorized under this section. The contract shall specify the cost per tire for delivery to a registered waste tire processing or end-user facility, and the cost per tire for processing. The recipient or recipients of any contract shall not be compensated by the department for the cost of delivery and the cost of processing for each tire until such tire is delivered to a registered waste tire processing or end-user facility and the contract recipient has provided proof of delivery to the department. Any charitable, fraternal, or other nonprofit

organization which voluntarily cleans up land or water resources may turn in waste tires collected in the course of such cleanup under the rules and regulations of the department.

(L. 1990 S.B. 530, A.L. 1995 S.B. 60 & 112)

Performance bond or letter of credit required for transporter of waste tires, when--provisions required--forfeiture of bond, when, procedure--bond requirement ceases, when.

260.278. 1. A person who has, within the preceding twenty-four months, been found guilty or pleaded guilty to a violation of section 260.270 which involves the transport of waste tires may not be granted a permit to transport waste tires unless the person seeking the permit has provided to the department a performance bond or letter of credit as provided under this section.

2. The bond or letter shall be conditioned upon faithful compliance with the terms and conditions of the permit and section 260.270 and shall be in the amount of ten thousand dollars.

3. Such performance bond, placed on file with the department, shall be in one of the following forms:

(1) A performance bond, payable to the department and issued by an institution authorized to issue such bonds in this state; or

(2) An irrevocable letter of credit issued in favor of and payable to the department from a commercial bank or savings and loan having an office in the state of Missouri.

4. Upon a determination by the department that a person has violated the terms and conditions of the permit or section 260.270, the department shall notify the person that the bond or letter of credit shall be forfeited and the moneys placed in an appropriate subaccount of the solid waste management fund, created under section 260.330, for remedial action.

5. The department shall expend whatever portion of the bond or letter of credit necessary to conduct resource recovery or nuisance abatement activities to alleviate any condition resulting from a violation of section 260.270 or the terms and conditions of a permit.

6. The requirement for a person to provide a performance bond or a letter of credit under this section shall cease for that person after two consecutive years in which the person has not been found guilty or pleaded guilty to a violation of section 260.270.

(L. 1995 S.B. 60 & 112)

Container defined--plastic ring or holding device must be biodegradable within two years--acceptable rings or holding device, department to furnish list--violations, penalty--effective when.

260.280. 1. As used in this section and section 260.281, the term "container" means any glass, metal or plastic bottle, can, jar or other receptacle for holding liquid, powder or other material, which has been sealed by a manufacturer and which, at the time of sale, contains less than one gallon of such liquid, powder or other material.

2. Beginning January 1, 1991, no person may sell or offer for sale in this state containers connected to each other by a separate holding device constructed of plastic rings or other plastic

holding device, unless such device decomposes by photodegradation, chemical degradation or biodegradation within a two-year period of time upon exposure to the elements. The department of natural resources shall determine which plastic holding devices satisfy the requirements of this section and shall furnish a list of acceptable types of plastic holding devices to any person upon the request of such person.

3. A retail or wholesale business violating this section shall be subject to a fine not to exceed one thousand dollars for a first offense, five thousand dollars for a second offense, and ten thousand dollars for a third and each subsequent offense. If the violation is of a continuing nature, each day of the violation shall constitute an additional, separate, and distinct offense.

(L. 1989 H.B. 438, et al. § 3)

Effective 1-1-91

Plastic, plastic bottles or rigid plastic container defined --containers, must have coded label, content, form--exempt products, rules established by department--violations, penalty.

260.281. 1. As used in this section, the following terms mean:

(1) "Label", a molded imprint or raised symbol on or near the bottom of a plastic product;

(2) "Person", an individual, sole proprietor, partnership, association, corporation or other legal entity;

(3) "Plastic", any material made of polymeric organic compounds and additives that can be shaped by flow;

(4) "Plastic bottle", a plastic container that has a neck that is smaller than the body of the container, accepts a screwtype, snap cap or other closure and has a capacity of sixteen fluid ounces or more, but less than five gallons;

(5) "Rigid plastic container", any formed or molded container, other than a bottle, intended for single use, composed predominantly of plastic resin, and having a relatively inflexible finite shape or form with a capacity of eight ounces or more but less than five gallons.

2. Beginning January 1, 1992, no retail or wholesale business shall distribute, sell or offer for sale in this state any plastic bottle or rigid plastic container or any product in such a bottle or container unless the product bottle or container is labeled with a code indicating the plastic resin used to produce the bottle or container. Rigid plastic bottles or rigid plastic containers with labels and basecups of a different material shall be coded by their basic material. The code shall consist of a number placed within a triangle of arrows and letters placed below the triangle of arrows. The triangle shall be equilateral, formed by three arrows with the apex of each point of the triangle at the midpoint of each arrow, rounded with a short radius. The arrowhead of each arrow shall be at the midpoint of each side of the triangle with a short gap separating the pointer from the base of the adjacent arrow. The triangle, formed by the three arrows curved at their midpoints shall depict a clockwise path around the code number. The numbers and letters used shall be as follows:

(1) "1" - PETE (polyethylene terephthalate);

(2) "2" - HDPE (high density polyethylene);

- (3) "3" - V (vinyl);
- (4) "4" - LDPE (low density polyethylene);
- (5) "5" - PP (polypropylene);
- (6) "6" - PS (polystyrene);
- (7) "7" - OTHER (includes multi-layer).

3. The department of natural resources shall determine through rules and regulations which plastic containers may be exempt from the labeling requirements including, but not limited to:

- (1) Readily identifiable plastic containers;
- (2) Plastic containers for which there is no technological capability for recycling, reclamation or reuse;
- (3) Plastic containers for which recycling, reclamation or reuse is not economically feasible; and
- (4) Plastic containers of a capacity less than a specified minimum size as determined by the department of agriculture.

4. The department may by rule modify the codes established in this section and may create additional codes to reflect technological changes in the production, marketing and recycling of plastic containers.

5. Any person who violates subsection 2 of this section shall be guilty of a class A misdemeanor. Each day of violation constitutes a separate offense.

(L. 1989 H.B. 438, et al. § 4, A.L. 1990 S.B. 530)

Effective 1-1-92

Manufacturer recycling flexible cellulose casing eligible for tax credit--claim procedure--fraudulent claim, penalty.

260.285. 1. Any manufacturer engaged in this state in production of a meat or poultry food product intended for human consumption that is recycling flexible cellulose casing manufactured from cotton linters used and consumed directly in the production of such food product shall be eligible for a credit as defined in subsection 2 of this section. For purposes of this section, "cotton linters" means fibers from any plant or wood pulp material used for the creation of flexible cellulose casings.

2. The credit authorized in subsection 1 shall be equal to the amount of state sales or use taxes paid by a manufacturer to a retailer on such packaging material which is subsequently recycled by either the manufacturer or other person or entity to which the manufacturer conveys such packaging materials, less any consideration received by the manufacturer for such conveyance.

3. A manufacturer shall claim the refund in the month following the month in which the material has been recycled or conveyed for recycling. When claiming a credit pursuant to this section, a manufacturer shall provide a detailed accounting of the amount of packaging material recycled, amount of sales or use tax paid on such material, an affidavit attesting that the manufacturer is eligible pursuant to the provisions of this section for the credit being claimed, documentation that the activity constitutes recycling as certified by the director of the department of natural resources and any other documentation determined necessary by the director of the

department of revenue. The director shall refund any valid credit claims within sixty days of receipt. If the director determines that a fraudulent claim for the credit has been filed, the director may assess a penalty in an amount not to exceed twice the amount of fraudulent credits claimed.

4. Payment of credits authorized by this section shall not alter the liability of a retailer regarding sales tax on such material. Credits authorized by this section shall be paid from funds appropriated for the refund of taxes.

(L. 1991 S.B. 87, A.L. 1998 S.B. 827 merged with S.B. 936, A.L. 2000 H.B. 1454)

Effective 6-27-00

Regions, division of state into--procedures, purpose.

260.300. 1. The department shall propose a plan to divide the state into proposed solid waste management regions in consultation with the governing bodies of the counties of the state. The department shall propose the boundaries of solid waste management regions by March 1, 1991.

2. The department shall hold public meetings in each of the regions proposed pursuant to subsection 1 of this section within three months of its division of the state into proposed regions. Any county may request that it be placed with another regional grouping, and the department shall authorize any such change if the county clearly and convincingly demonstrates that the change is necessary for effective solid waste management within the county and will not negatively affect the solid waste management system of either region. The department shall adopt final boundaries for the regions by June 30, 1991.

3. Counties may, for the purpose of managing districts, cooperate as provided in sections 260.300 to 260.345 or formulate an alternative management structure agreed to by each county in the district. A solid waste management district, regardless of how formed, shall be governed by an executive board and comply with the provisions of sections 260.200 to 260.345.

(L. 1990 S.B. 530)

County may apply for change in region, when, procedures.

260.302. On June 19, 1992, and for three months thereafter and for the last three months of the year 1994 and every third year thereafter, the governing body of a county may apply to the department to request that the county be placed with another regional grouping or, if necessary, in a new regional grouping. After public notice and comment and within no more than ninety days after the completed application has been submitted, the department shall authorize any such change if the county clearly and convincingly demonstrates that the change is necessary for effective solid waste management within the county and will not negatively affect the solid waste management system of either region. The procedure for establishing solid waste management regions set forth in section 260.300 shall take priority over and be followed in exclusion to the rulemaking procedure set forth in chapter 536, RSMo, and section 260.225.

(L. 1992 H.B. 1732)

Effective 6-19-92

Creation of district, procedures--boundaries, limitations--petition to establish--district a body corporate and politic, when--election.

260.305. 1. A solid waste management district may be created and incorporated in each solid waste management region as provided in sections 260.300* to 260.345 and may exercise the powers granted to it in sections 260.300 to 260.345.

2. When a solid waste management district is organized it shall be a body corporate of the state and shall be known as "..... Solid Waste Management District".

3. A county or two or more counties within a region may form or join a district as provided herein. The governing body of any county, by adoption of an ordinance or order, may join an existing district or form a district if the county is located in a region which does not have an existing district. The governing body of any two or more counties within the same region may join together to form a district by adoption of an ordinance or order. A city located in more than one county may join a district which encompasses any one of the counties within which it is located, regardless of whether the remaining counties containing the city join the district.

4. A solid waste management district created and organized under authority of sections 260.300 to 260.345 shall become a body corporate and politic of the state at the time the governing body of the county or counties forming the district has adopted an order or ordinance to form the district under the provisions of this section and has provided written notice to the department of natural resources of the adoption of such order or ordinance. A county shall become a part of an existing district at the time the governing body of such county has adopted an order or ordinance to join the district and has provided written notice to the governing body of each county in the existing district and has provided written notice to the department of natural resources.

5. If a county governing body does not form or join a district, the question of forming or joining a district may be submitted to the voters of any county on any regular election day as provided in section 115.123, RSMo. The question may be submitted or resubmitted to the voters of any county upon the submission of a petition signed by a number of voters which is at least equal to five percent of those voting in the most recent gubernatorial election. The question shall be submitted in substantially either of the following forms:

Shall (insert county name) become a member of the (insert name) solid waste management district?; or if a solid waste management district has not been formed within the region:

Shall (insert county name) form the (insert name) solid waste management district?

The election authority shall notify the secretary of state as to the results of the election. The secretary of state shall transmit the election results to the director of the department of natural resources who shall declare districts created within all counties of each region wherein the question received a majority of the votes cast. The director's declaration shall be transmitted to the governing body of each county within the district.

(L. 1990 S.B. 530, A.L. 1992 H.B. 1732)

*Section number "260.200" appears in original rolls, an apparent typographical error.

Contractual authority, powers.

260.310. 1. The authority of the district shall not extend to any county within the region which has not joined the district.

2. The district may enter into a contract with any city or county within the district to provide all or part of the solid waste management services for the city or county. A city or county shall not be required to meet the provisions of section 260.220 or of section 260.325 if a district includes the city or county within its solid waste plan and the city or county has by contract given the district complete authority for managing the solid waste of the city or county.

3. The district and the counties and cities within the district may enter into whatever contracts or agreements they deem necessary to fulfill their responsibilities under this chapter. Nothing in this section shall preclude the transfer of solid waste outside the boundaries of the district.

4. Contracts issued for the collection or disposal of solid waste in cities, counties, and districts shall not require either security instruments or performance bonds in excess of twenty percent of the total cost of the contract.

5. Any county or counties which are within a solid waste management district may, in cooperation with the district, require by ordinance or order that any solid waste transported from outside the district to a solid waste processing facility or solid waste disposal area within the district be subject to the same requirements as solid waste originating from within the district as set forth in the solid waste management plan under section 260.325, including the separation of recyclable or compostable materials from the solid waste stream before entering a district's solid waste management system.

6. A solid waste management district may be created and incorporated in each solid waste management region as provided in sections 260.200 to 260.345 and may exercise the powers granted to it in sections 260.200 to 260.345.

(L. 1990 S.B. 530)

Council, selection of members, terms--meetings--powers--selection of executive board, terms.

260.315. 1. There is hereby established a solid waste management council for each solid waste management district, except for those districts which formulate an alternative management structure pursuant to section 260.300. The governing body of each city with a population over five hundred within the district shall appoint one member of the city governing body and the governing body of each county within the district shall appoint two members of the county governing body to the council.

2. Council members shall serve a term of two years and may be reappointed thereafter; however, members whose elected term of office in a city or county has expired shall be expeditiously replaced by the governing bodies from whence they were selected.

3. The council shall meet within thirty days of the receipt of notification of formation of the district at the call of the governing body of the county containing the largest population among those counties approving the formation of the district or, at the call of the director of the department, if the county does not call the meeting. A majority of the council shall constitute a quorum.

4. The council shall:

(1) Organize itself and select a chairman and such other officers as it deems appropriate;

(2) Select seven persons to serve on the executive board, at least a majority of whom shall be selected from members of the council. The council shall establish the terms of office for members of the executive board. The balance shall be selected in any manner approved by the council, including district-wide elections. Any subsequent member of the board shall be selected in the same manner as the person he replaces. If the council is composed of twelve or fewer members, the council shall act as the executive board;

(3) Meet at least twice annually and upon the call of either the chairman of the council or the chairman of the executive board; and

(4) Review and act upon the solid waste management plan recommended by the executive board.

(L. 1990 S.B. 530)

Executive board, meetings, selection of officers--powers, duties --contractual authority.

260.320. 1. The executive board shall meet within thirty days after the selection of the initial members. The time and place of the first meeting of the board shall be designated by the council. A majority of the members of the board shall constitute a quorum. At its first meeting the board shall elect a chairman from its members and select a secretary, treasurer and such officers or employees as it deems expedient or necessary for the accomplishment of its purposes. The secretary and treasurer need not be members of the board.

2. The executive board may adopt, alter or repeal its own bylaws, rules and regulations governing the manner in which its business may be transacted, including procedures for the replacement of persons who habitually fail to attend board meetings, and may establish its fiscal year, adopt an official seal, apply for and accept grants, gifts or appropriations from any public or private sector, make all expenditures which are incidental and necessary to carry out its purposes and powers, and take such action, enter into such agreements and exercise all other powers and functions necessary or appropriate to carry out the duties and purposes of sections 260.200 to 260.345.

3. The executive board shall:

(1) Review and comment upon applications for permits submitted pursuant to section 260.205, for solid waste processing facilities and solid waste disposal areas which are to be located within the region or, if located in an adjacent region, which will impact solid waste management practices within the region;

(2) Prepare and recommend to the council a solid waste management plan for the district;

(3) Identify illegal dump sites and provide all available information about such sites to the appropriate county prosecutor and to the department;

(4) Establish an education program to inform the public about responsible waste management practices;

(5) Establish procedures to minimize the introduction of small quantities of hazardous waste, including household hazardous waste, into the solid waste stream;

(6) Assure adequate capacity to manage waste which is not otherwise removed from the solid waste stream; and

(7) Appoint one or more geographically balanced advisory committees composed of the representatives of commercial generators, representatives of the solid waste management industry, and two citizens unaffiliated with a solid waste facility or operation to assess and make recommendations on solid waste management.

4. The executive board may enter into contracts with any person for services related to any component of the solid waste management system. Bid specifications for solid waste management services shall be designed to meet the objectives of sections 260.200 to 260.345, encourage small businesses to engage and compete in the delivery of waste management services and to minimize the long-run cost of managing solid waste. Bid specifications shall enumerate the minimum components and minimum quantities of waste products which shall be recycled by the successful bidder. The board shall divide the district into units to maximize access for small businesses when it requests bids for solid waste management services.

5. No person shall serve as a member of the council or of the executive board who is a stockholder, officer, agent, attorney or employee or who is in any way pecuniarily interested in any business which engages in any aspect of solid waste management regulated under sections 260.200 to 260.345; provided, however, that such member may own stock in a publicly traded corporation which may be involved in waste management as long as such holdings are not substantial.

(L. 1990 S.B. 530)

Solid waste management plan, submitted to department, contents, procedures--approval, revision of plan--funds may be made available, purpose.

260.325. 1. The executive board of each district shall submit to the department a plan which has been approved by the council for a solid waste management system serving areas within its jurisdiction and shall, from time to time, submit officially adopted revisions of its plan as it deems necessary or the department may require. In developing the district's solid waste management plan, the board shall consider the model plan distributed to the board pursuant to section 260.225. Districts may contract with a licensed professional engineer or as provided in chapter 70, RSMo, for the development and submission of a joint plan.

2. The board shall hold at least one public hearing in each county in the district when it prepares a proposed plan or substantial revisions to a plan in order to solicit public comments on the plan.

3. The solid waste management plan shall be submitted to the department within eighteen months of the formation of the district. The plan shall be prepared and submitted according to the procedures specified in section 260.220 and this section.

4. Each plan shall:

(1) Delineate areas within the district where solid waste management systems are in existence;

(2) Reasonably conform to the rules and regulations adopted by the department for implementation of sections 260.200 to 260.345;

(3) Delineate provisions for the collection of recyclable materials or collection points for recyclable materials;

(4) Delineate provisions for the collection of compostable materials or collection points for compostable materials;

(5) Delineate provisions for the separation of household waste and other small quantities of hazardous waste at the source or prior to disposal;

(6) Delineate provisions for the orderly extension of solid waste management services in a manner consistent with the needs of the district, including economic impact, and in a manner which will minimize degradation of the waters or air of the state, prevent public nuisances or health hazards, promote recycling and waste minimization and otherwise provide for the safe and sanitary management of solid waste;

(7) Take into consideration existing comprehensive plans, population trend projections, engineering and economics so as to delineate those portions of the district which may reasonably be expected to be served by a solid waste management system;

(8) Specify how the district will achieve a reduction in solid waste placed in sanitary landfills through waste minimization, reduction and recycling;

(9) Establish a timetable, with milestones, for the reduction of solid waste placed in a landfill through waste minimization, reduction and recycling;

(10) Establish an education program to inform the public about responsible waste management practices;

(11) Establish procedures to minimize the introduction of small quantities of hazardous waste, including household hazardous waste, into the solid waste stream;

(12) Establish a time schedule and proposed method of financing for the development, construction and operation of the planned solid waste management system together with the estimated cost thereof;

(13) Identify methods by which rural households that are not served by a regular solid waste collection service may participate in waste reduction, recycling and resource recovery efforts within the district; and

(14) Include such other reasonable information as the department shall require.

5. The board shall review the district's solid waste management plan at least every twenty-four months for the purpose of evaluating the district's progress in meeting the requirements and goals of the plan, and shall submit plan revisions to the department and council.

6. In the event any plan or part thereof is disapproved, the department shall furnish any and all reasons for such disapproval and shall offer assistance for correcting deficiencies. The executive board shall within sixty days revise and resubmit the plan for approval or request a hearing in accordance with section 260.235. Any plan submitted by a district shall stand

approved one hundred twenty days after submission unless the department disapproves the plan or some provision thereof.

7. The director may institute appropriate action under section 260.240 to compel submission of plans in accordance with sections 260.200 to 260.345 and the rules and regulations adopted pursuant to sections 260.200 to 260.345.

8. The provisions of section 260.215 to the contrary notwithstanding, any county within a region which on or after January 1, 1995, is not a member of a district shall by June 30, 1995, submit a solid waste management plan to the department of natural resources. Any county which withdraws from a district and all cities within the county with a population over five hundred shall submit a solid waste plan or a revision to an existing plan to the department of natural resources within one hundred eighty days of its decision not to participate. The plan shall meet the requirements of section 260.220 and this section.

9. Funds may, upon appropriation, be made available to cities, counties and districts, under section 260.335, for the purpose of implementing the requirements of this section.

(L. 1990 S.B. 530, A.L. 1991 S.B. 45, A.L. 1995 S.B. 60 & 112)

Landfill fee, amount--solid waste management fund, created, purpose--department to enforce--transfer station, fee charged --free disposal day, notice.

260.330. 1. Except as otherwise provided in subsection 6 of this section, effective October 1, 1990, each operator of a solid waste sanitary landfill shall collect a charge equal to one dollar and fifty cents per ton or its volumetric equivalent of solid waste accepted and each operator of the solid waste demolition landfill shall collect a charge equal to one dollar per ton or its volumetric equivalent of solid waste accepted. Each operator shall submit the charge, less collection costs, to the department of natural resources for deposit in the "Solid Waste Management Fund" which is hereby created. On October 1, 1992, and thereafter, the charge imposed herein shall be adjusted annually by the same percentage as the increase in the general price level as measured by the Consumer Price Index for All Urban Consumers for the United States, or its successor index, as defined and officially recorded by the United States Department of Labor or its successor agency. Collection costs shall be established by the department and shall not exceed two percent of the amount collected pursuant to this section.

2. The department shall, by rule and regulation, provide for the method and manner of collection.

3. The charges established in this section shall be enumerated separately from the disposal fee charged by the landfill and may be passed through to persons who generated the solid waste. Moneys shall be transmitted to the department shall be no less than the amount collected less collection costs and in a form, manner and frequency as the department shall prescribe. The provisions of section 33.080, RSMo, to the contrary notwithstanding, moneys in the account shall not lapse to general revenue at the end of each biennium. Failure to collect the charge does not relieve the operator from responsibility for transmitting an amount equal to the charge to the department.

4. The department may examine or audit financial records and landfill activity records and measure landfill usage to verify the collection and transmittal of the charges established in

this section. The department may promulgate by rule and regulation procedures to ensure and to verify that the charges imposed herein are properly collected and transmitted to the department.

5. Effective October 1, 1990, any person who operates a transfer station in Missouri shall transmit a fee to the department for deposit in the solid waste management fund which is equal to one dollar and fifty cents per ton or its volumetric equivalent of solid waste accepted. Such fee shall be applicable to all solid waste to be transported out of the state for disposal. On October 1, 1992, and thereafter, the charge imposed herein shall be adjusted annually by the same percentage as the increase in the general price level as measured by the Consumer Price Index for All Urban Consumers for the United States, or its successor index, as defined and officially recorded by the United States Department of Labor or its successor agency. The department shall prescribe rules and regulations governing the transmittal of fees and verification of waste volumes transported out of state from transfer stations. Collection costs shall also be established by the department and shall not exceed two percent of the amount collected pursuant to this subsection. A transfer station with the sole function of separating materials for recycling or resource recovery activities shall not be subject to the fee imposed in this subsection.

6. Each political subdivision which owns an operational solid waste disposal area may designate, pursuant to this section, up to two free disposal days during each calendar year. On any such free disposal day, the political subdivision shall allow residents of the political subdivision to dispose of any solid waste which may be lawfully disposed of at such solid waste disposal area free of any charge, and such waste shall not be subject to any state fee pursuant to this section. Notice of any free disposal day shall be posted at the solid waste disposal area site and in at least one newspaper of general circulation in the political subdivision no later than fourteen days prior to the free disposal day.

(L. 1990 S.B. 530, A.L. 1995 S.B. 60 & 112, A.L. 1999 H.B. 603, et al.)

Distribution of fund moneys, uses--grants, distribution of moneys --advisory board, solid waste, duties.

260.335. 1. For fiscal years 1992-1997, one million dollars from the solid waste management fund shall be made available, upon appropriation, to the department and the environmental improvement and energy resources authority to fund activities that promote the development and maintenance of markets for recovered materials, and beginning in fiscal year 1998, ten percent of the moneys in the solid waste management fund, from August 28, 2004, to August 28, 2005, not to exceed eight hundred thousand dollars, shall be made available for such purposes. Up to nineteen percent of such moneys may be used, upon appropriation, to administer the management of household hazardous waste and agricultural hazardous waste from family farms and family farm corporations, as defined in section 350.010, RSMo, to provide for establishment of an education program and a plan for the collection of household hazardous waste on a statewide basis by January 1, 2000. After August 28, 2005, no more than one million dollars shall be made available for such purposes. Up to fifteen percent of such moneys may be used upon appropriation to administer the management of household hazardous waste and agricultural hazardous waste from family farms and family farm corporations, as defined in sections 350.010, RSMo, to provide for establishment of an education program and a plan for the collection of household hazardous waste on a statewide basis by January 1, 2000. The department and the

authority shall establish a joint interagency agreement with the department of economic development to identify state priorities for market development and to develop the criteria to be used to judge proposed projects. Additional moneys may be appropriated in subsequent fiscal years if requested. The authority shall establish a procedure to measure the effectiveness of the grant program under this subsection and shall provide a report to the governor and general assembly by January fifteenth of each year regarding the effectiveness of the program.

2. All remaining revenues deposited into the fund each fiscal year after moneys have been made available for market development under subsection 1 of this section shall be allocated as follows:

(1) From August 28, 2004, to August 28, 2005, up to forty-two percent of the revenues shall be dedicated, upon appropriation, to the elimination of illegal solid waste disposal, to identify and prosecute persons disposing of solid waste illegally, to conduct solid waste permitting activities, to administer grants and perform other duties imposed in sections 260.200 to 260.345 and section 260.432. After August 28, 2005, up to twenty-five percent of the revenues shall be dedicated, upon appropriations, to the activities and duties authorized in this subdivision;

(2) From August 28, 2004, to August 28, 2005, at least fifty-eight percent of the revenues shall be allocated through grants, upon appropriation, to participating cities, counties, and districts. After August 28, 2005, up to fifty percent of the revenues shall be allocated through grants, upon appropriation, to participating districts. Forty percent of the revenue generated within each region and allocable under this subdivision may be allocated to the district upon approval of the department for implementation of a solid waste management plan and district operations, and sixty percent of the revenue generated within each region and allocable under this subdivision shall be allocated to the cities and counties of the district or to persons or entities providing solid waste management, waste reduction, recycling and related services in the cities and counties. For the purposes of this subdivision, revenue generated within each district shall be determined from the previous year's data. From August 28, 2004 to August 28, 2005, each district shall receive a minimum of seventy-five thousand dollars under this subdivision. After August 28, 2005, each district shall receive a minimum of forty-five thousand dollars under this subdivision. Each district receiving moneys under this subdivision shall expend such moneys pursuant to a solid waste management plan required under section 260.325, and only in the case that the district is in compliance with planning requirements established by the department, and shall submit, within ninety days of the end of the fiscal year, an audited report of the expenditure of all funds received under this subsection. Moneys shall be awarded based upon grant applications. Any moneys remaining in any fiscal year due to insufficient or inadequate applications may be reallocated pursuant to this subdivision.

(3) From August 28, 2004, to August 28, 2005, any remaining moneys in the fund shall be used, upon appropriation, to provide grants for statewide solid waste management planning or research projects to any district, county or city of the state or to any other person or entity involved in waste reduction or recycling or for contracted services to further the purposes of section 260.225 and sections 260.255 to 260.345. After August 28, 2005, any remaining moneys in the fund shall be used, upon appropriation, to provide grants or loans for statewide solid waste management projects to any district,

county or city of the state or to any other person or entity involved in waste reduction or recycling to further the purposes of sections 260.255 to 260.345. Solid waste management districts may apply annually to the department for a three-to-one matching grant of up to twenty thousand dollars per district per year to be used for the purpose of district operations;

(4) Funds may be made available under this subsection for the administration and grants of the used motor oil program described in section 260.253;

(5) The department and the environmental improvement and energy resources authority shall conduct sample audits of grants provided under this subsection.

3. The advisory board created in section 260.345 shall recommend criteria to be used to allocate grant moneys to districts, cities and counties. These criteria shall establish a priority for proposals which provide methods of solid waste reduction and recycling. The department shall promulgate criteria for evaluating grants by rule and regulation. Projects of cities and counties located within a district which are funded by grants under this section shall conform to the district solid waste management plan.

4. Beginning July 1, 2004, a joint committee appointed by the speaker of the house of representatives and the president pro tem of the senate shall consider proposals for fees, restructuring the distribution of the fees between solid waste districts, grant recipients and the department. The committee shall consider options for the distributions of the tipping fee to the solid waste districts and any other matters it deems appropriate. The committee shall prepare and submit a report including its recommendation for changes to the governor, the house of representatives, and the senate no later than December 31, 2004.

5. The funds awarded to the districts, counties and cities pursuant to this section shall be used for the purposes set forth in sections 260.300 to 260.345, and shall be used in addition to existing funds appropriated by counties and cities for solid waste management and shall not supplant county or city appropriated funds.

6. The department, in conjunction with the solid waste advisory board, shall review the performance of all grant recipients to ensure that grant moneys were appropriately and effectively expended to further the purposes of the grant, as expressed in the recipient's grant application. The grant application shall contain specific goals and implementation dates, and grant recipients shall be contractually obligated to fulfill same. The department may require the recipient to submit periodic reports and such other data as are necessary, both during the grant period and up to five years thereafter, to ensure compliance with this section. The department may audit the records of any recipient to ensure compliance with this section. Recipients of grants under sections 260.300 to 260.345 shall maintain such records as required by the department. If a grant recipient fails to maintain records or submit reports as required herein, refuses the department access to the records, or fails to meet the department's performance standards, the department may withhold subsequent grant payments, if any, and may compel the repayment of funds provided to the recipient pursuant to a grant. The department shall make available all of the unencumbered funds generated during prior fiscal years by the fees established under section 260.330 through grants or loans to solid waste management areas and processing facilities, municipalities, counties, districts, and other appropriate persons who demonstrate a need for assistance to comply with section 260.250. Such grants or loans shall be used for educational programs, transportation, low-interest or no-interest loans to purchase

property for composting or other solid waste source reduction activities stated to facilitate compliance with section 260.250.

7. The department shall provide for a security interest in any machinery or equipment purchased through grant moneys distributed pursuant to this section.

8. If the moneys are not transmitted to the department within the time frame established by the rule promulgated, interest shall be imposed on the moneys due the department at the rate of ten percent per annum from the prescribed due date until payment is actually made. These interest amounts shall be deposited to the credit of the solid waste management fund.

(L. 1990 S.B. 530, A.L. 1993 S.B. 80, et al., A.L. 1995 S.B. 60 & 112, 2004 S.B. 1040)

Educational and informational programs, department to conduct, how.

260.342. The department of natural resources shall collect and disseminate information and conduct educational and training programs that assist in the implementation of sections 260.200 to 260.345. The information and programs shall be designed to enhance district, county and city solid waste management systems and to inform the public of the relationship between an individual's consumption of goods and services, the generation of different types and quantities of solid waste and the implementation of solid waste management priorities under sections 260.200 to 260.345. Educational information shall also address other environmental concerns associated with solid waste management including energy consumption and conservation; air and water pollution; and land use planning. The department of natural resources may cooperate with the department of elementary and secondary education for the purpose of developing specific educational curriculum and programs. The information and programs shall be prepared for use on a statewide basis for the following:

- (1) Municipal, county and state officials and employees;
- (2) Kindergarten through post-baccalaureate students and teachers;
- (3) Private solid waste scrap brokers, dealers and processors;
- (4) Businesses which use or could use recycled materials or which produce or could produce products from recycled materials, and persons who support or serve these businesses; and
- (5) The general public.

(L. 1990 S.B. 530)

Solid waste advisory board, members--qualifications--duties and powers--removal of board member for failure to attend meetings, when.

260.345. A state "Solid Waste Advisory Board" is created within the department of natural resources. The advisory board shall be composed of the chairman of the executive board of each of the solid waste management districts and other members as provided in this section. Up to five additional members shall be appointed by the director of which up to two may represent the solid waste management industry and have an economic interest in or activity with any solid waste facility or operation, and at least one such member shall represent a locally owned solid waste management business, and the remaining members shall be public members who have demonstrated interest in solid waste management issues and shall have no economic interest in or

activity with any solid waste facility or operation but may own stock in a publicly traded corporation which may be involved in waste management as long as such holdings are not substantial. The appointment of any member by the director shall be terminated if the member fails to attend at least fifty percent of the board meetings in any calendar year. The advisory board shall advise the department regarding:

- (1) The efficacy of its technical assistance program;
- (2) Solid waste management problems experienced by solid waste management districts;
- (3) The effects of proposed rules and regulations upon solid waste management within the districts;
- (4) Criteria to be used in awarding grants pursuant to section 260.335;
- (5) Waste management issues pertinent to the districts;
- (6) The development of improved methods of solid waste minimization, recycling and resource recovery; and
- (7) Such other matters as the advisory board may determine.

(L. 1990 S.B. 530, A.L. 1995 S.B. 60 & 112)

640.018. 1. The department of natural resources shall not place in any permit any requirement, provision, stipulation, or any other restriction which is not prescribed or authorized by regulation or statute, unless the requirement, provision, stipulation, or other restriction is pursuant to the authority addressed in statute.

2. Prior to submitting a permit to public comment the department of natural resources shall deliver such permit to the permit applicant at the contact address on the permit application for final review. In the interest of expediting permit issuance, permit applicants may waive the opportunity to review draft permits prior to public notice. The permit applicant shall have ten days to review the permit for errors. Upon receipt of the applicant's review of the permit, the department of natural resources shall correct the permit where nonsubstantive drafting errors exist. The department of natural resources shall make such changes within ten days and submit the permit for public comment. If the permit applicant is not provided the opportunity to review permits prior to submission for public comment, the permit applicant shall have the authority to correct drafting errors in their permits after they are issued without paying any fee for such changes or modifications.

3. In any matter where a permit is denied by the department of natural resources pursuant to authorities granted in this chapter and chapters 260, 278, 319, 444, 643, and 644, RSMo, the hazardous waste management commission in chapter 260, RSMo, the state soil and water districts commission in chapter 278, RSMo, the land reclamation commission in chapter 444, RSMo, the safe drinking water commission in this chapter, the air conservation commission in chapter 643, RSMo, and the clean water commission in chapter 644, RSMo, such denial shall clearly state the basis for such denial.

4. Once a permit or action has been approved by the department, the department shall not revoke or change, without written permission from the permittee, the decision for a period of one year or unless the department determines that immediate action is necessary to protect human health, public welfare, or the environment.

(2004 H.B. 980)